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THE

BOMBAY CODE.

VOLUME II.

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GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

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THE

BOMBAY CODE,

IN FOUR VOLUMES.

VOLUME II:

102641 a

CONTAINING

THE UNREPEALED ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL IN FORCE IN BOMBAY, FROM 1862 TO 1887, INCLUSIVE:

AND

A CHRONOLOGICAL TABLE OF ENACTMENTS REPRODUCED IN THE VOLUME.

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77. a. 3

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CHRONOLOGICAL TABLE OF THE UNREPEALED [1]ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL IN FORCE IN BOMBAY.

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,,	V	Bhágdárí and Narwádárí Tenures.	Rep. in part, Act 12 of 1873; Act 12 of 1876; Bom. Act 3 of 1886. Declared not to be in force in the Pánch Maháls, Act 7 of 1885.	372
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[1] For a complete list of these Acts, whether repealed or unrepealed, *see* Wigley's Chronological Tables of the Indian Statutes, Ed. 1901.

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Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Page.
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Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Page.
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„	VIII	[1] The Sindh Local Funds Act, 1865.	Rep. in part, Bom. Act 1 of 1884. Amended, Bom. Act 1 of 1884, s 76.	454
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„	XII	Courts (Sindh) . .	Rep. in part, Act 12 of 1873; Act 16 of 1895; Bom. Act 3 of 1886. Bom. Act 1 of 1906. Amended, Bom. Act 3 of 1868.	458
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[1] This title was given by Bom. Act I of 1884, s. 2.

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Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Page.
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,,	II	The Bombay Ferries Act, 1868.	Rep. in part, Act 12 of 1873; Act 2 of 1901. Bom. Act 3 of 1886; (except in Aden and the City of Bombay), Bom. Act 1 of 1884. Amended, Bom. Act 2 of 1878.	486
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Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Page.
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„	II	Jails	Rep. in part, Act 9 of 1874; Bom. Act 3 of 1886. Amended, Bom. Act 2 of 1882.	514
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1875	I	Survey and Settlement (amending Bom. Act I of 1865).	Rep. (locally), Bom. Act 5 of 1879.	Not re-published.
„	III	Tolls on Roads and Bridges.	Rep. in part, Act 16 of 1895; Act 2 of 1901; Bom. Act 3 of 1886; (except in Aden and the City of Bombay), Bom. Act 1 of 1884. Amended, Bom. Act 5 of 1881; (except in Aden and the City of Bombay), Bom. Act 1 of 1884, s. 77.	514
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„	II	The Bombay City Land-revenue Act, 1876.	Rep. in part, Bom. Act 3 of 1886. Amended, Act 16 of 1895. Bom. Act 3 of 1900.	552

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Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Page.
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„	V	The Bombay Ábkárí Act, 1878.	Rep. in part, Act 16 of 1895. Rep. in part and amended, Bom. Act 3 of 1886. Amended, Bom. Act 3 of 1892. Bom. Act 5 of 1901. Bom. Act 1 of 1903. Bom. Act 3 of 1905. Bom. Act 4 of 1905.	583
1879	IV	The Káráchí Vaccination Act, 1879.	Rep. in part, Bom. Act 3 of 1886. Rep. in part and amended, Act 16 of 1895. Amended, Bom. Act 3 of 1882.	609
„	V	The Bombay Land-revenue Code, 1879.	Rep. in part, Bom. Act 3 of 1886. Rep. in part and amended— Act 16 of 1895; Bom. Act 6 of 1901; Bom. Act 4 of 1905. Rep. in part and amended (locally)— Bom. Act 1 of 1880, s. 39; Bom. Act 6 of 1888, ss. 3 and 53 as amended by Bom. Act 2 of 1905. Amended, Bom. Act 7 of 1879, s. 2; Bom. Act 4 of 1886. S. 85 and part of s. 58 declared not to be in force in the Páuch Máhals, Act 7 of 1885.	631
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Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Page.
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,,	VII	The Bombay Irrigation Act, 1879.	Rep. in part, Act 16 of 1895; Bom. Act 3 of 1880; Bom. Act 3 of 1886.	754
1880	I	The Khoti Settlement Act, 1880.	Rep. in part, Bom. Act 3 of 1886. Rep. in part and amended, Bom. Act 3 of 1904.	776
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1883	I	The Bombay Highway Act, 1883.	Rep. in part, Bom. Act 3 of 1886 [as amended by Bom. Act 1 of 1891, s. 2 (*a*)]. Amended, Act 16 of 1895.	
,,	II	The Karachi Tramways Act, 1883.	Rep. in part, Bom. Act 3 of 1886.	806

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Year.	No.	Short title or subject.	How repealed or otherwise affected by legislation.	Page.
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THE BOMBAY CODE.

VOLUME II.

ACTS OF THE GOVERNOR OF BOMBAY IN COUNCIL FROM 1862 UP TO THE END OF 1887.

BOMBAY ACT No. I OF 1862.[1]

[*4th April, 1862.*]

An Act for bringing under the Regulations and Acts certain lands ceded by His Highness the Gáikwár for railway purposes.

Preamble.

WHEREAS His Highness the Gáikwár has ceded to the Government of India certain lands for the construction of a railway through his territories, and it is necessary that those lands should be annexed to the Presidency of Bombay, and made subject to the Laws and Regulations of that Presidency It is enacted as follows :—

Land delivered by Gáikwár for railway to form part of Surat Zila, and be subject to Bombay laws.

1. All such parts of villages mentioned in the schedule [2]* * * * as have been delivered over by His Highness the Gáikwár to the Government of India for the construction of the Bombay, Baroda and Central India Railway, shall, from and after the passing of this Act, form part of the Zila of Surat, and be subject to the Regulations and Acts which are or shall be in force within the territories subject to the Presidency of Bombay.

SCHEDULE.

Baroda Pargana.

1. Haldarva.	7. Miyágám.
2. Tosrod.	8. Karjan.
3. Vallan.	9. Kandári.
4. Dethán (Inámi).	10. Kerda.
5. Lákodra.	11. Sarád (Inámi).
6. Varva.	12. Kásipura.

[1] No separate Statement of Objects and Reasons to this Bill was published, but the Bill as introduced was published in the Bombay Government Gazette, 1862, Supplement, p. 7, preceded by a short paragraph explaining its objects; for Proceedings in Council, *see ibid*, pp. 36 and 47.

[2] The words "annexed to this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904, (Bom. Act I of 1904), Vol. IV.

Baroda Pargana—continued.

13. Itola.
14. Varsala.
15. Vaḍnáma.
16. Dalipur.
17. Máritha.
18. Mánája.
19. Vadsar (Inámi).
20. Májalpur (Inámi).
21. Nágarváḍa.
22. Akota.
23. Jetalpur.
24. Gorva.
25. Kaḍodia.
26. Undera.
27. Bájuva.
28. Kaḍchia.
29. Ranoli.
30. Padamla.
31. Nandesri.
32. Fázalpur (up the river Mahi).

Surat Athávisi Pargana.

33. Sakhpur-urf Rond, Pargana Galet.
34. Pellotha, Pargana Vesráni.
35. Chuvácha, ditto ditto.
36. Kusumha, ditto ditto.
37. Tarsáli, ditto ditto.
38. Háturan, ditto ditto.
39. Varadla, ditto ditto.
40. Maroli Kasba.
41. Posra, Pargana Maroli.
42. Morváḍ, Pargana Telari.
43. Chinam, ditto ditto.
44. Tavri, ditto ditto.
45. Navsári Kasba.
46. Ságara, Pargana Navsári. (Inámi).
47. Kadoli, ditto ditto.
48. Dánoda, Pargana Gandevi
49. Bilimora, ditto ditto.
50. Desra, ditto ditto.

BOMBAY ACT No. IV OF 1862.[1]

[*24th April, 1862.*]

An Act for regulating the establishment of markets and fairs.

Preamble.

WHEREAS the establishment of new markets or fairs in the neighbourhood of places where markets or fairs have been previously established leads to disputes between the owners of the lands on which such new and previously established markets or fairs are held, and such disputes not unfrequently occasion breaches of peace and serious inconvenience to the frequenters of such markets or fairs; It is enacted as follows:—

No new market or fair to be established without permission.

1. [2] * * * * * No person shall establish a new market or fair without permission, in writing, from the Magistrate of the district.

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[1] No Statement of Objects and Reasons was published. For the Bill as introduced, *see* Bombay Government Gazette, 1862, Supplement, p. 49; for Report of the Select Committee, *see ibid*, p. 77 and for Proceedings in Council, *see ibid*, pp. 49, 76 and 95.

[2] The words "After the passing of this Act" were repealed by the Repealing Act, 1873 (12 of 1873).

Penalty for attempt to establish without license.

If any person shall attempt to establish a new market or fair without such license, he shall, on conviction by [1][a Magistrate of the first class,] be subject to a fine not exceeding two hundred rupees, or, in default of payment, to simple imprisonment for any period not exceeding two [2] * months.

Person desiring to establish to apply to Magistrate.

Contents of application.

2. When any person desires to establish a new market or fair, he shall make application, in writing, to the Magistrate of the district.

The application shall specify—

the name of the place at which it is proposed to establish such new market or fair;

the days on which it is to be held;

the name of the place where the nearest existing market or fair is held, and the days on which it is held;

the distance, in English miles, between the two places, and

the reasons of the applicant for desiring to establish the new market or fair.

Procedure on application.

3. On receipt of the application, the Magistrate shall issue a proclamation stating the desire of the applicant to establish a market or fair at the place named by him and the days on which it is proposed to be held, and calling upon any person who may have any objection to the establishment of the market or fair to state his objection, in writing, within six weeks from the date of the proclamation.

Publication of proclamation.

The proclamation shall be fixed in a conspicuous place in the village or town in or near to which it is proposed that the new market or fair shall be held, and a copy of the same shall be affixed at the police-station within the jurisdiction of which the village or town is situated, and in the Court of the Magistrate.

Notice to land-owner of neighbouring market.

If it shall appear that any existing market or fair is held within a distance of four miles from the place where it is proposed that the new market or fair shall be established, the Magistrate shall cause a notice, to the effect of the proclamation, to be served upon the owner of the land where such existing market or fair is held.

The proclamation and notice (if any) shall be issued and served at the expense of the applicant.

Order permitting establishment.

4. If, within the time specified in the proclamation and notice (if any), no objection is preferred to the establishment of the proposed market or fair, the Magistrate of the district shall pass an order permitting it to be established.

[1] These words in s. 1 were substituted for the words "the Magistrate" by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The word "calendar" was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

Enquiry into objection.

If within the time specified any objection is preferred, the Magistrate of the District shall inquire into the objection, and pass such order as may appear proper under the circumstances of the case.

5. [*Markets and fairs established prior to passing of Act.*] *Rep. Act XII of 1876.*

Appeal.

6. Every order passed by a [1][District Magistrate] under [1][section 4] shall, within six weeks, be open to appeal to the Commissioner [1]* * * and the order of the Commissioner shall be final.

Penalty for contravening, disobeying or opposing order.

7. Every person who shall contravene, disobey or oppose any order duly made under this Act shall be liable to a fine not exceeding two hundred rupees, or, in default of payment, to imprisonment [2]* * * * * for any period not exceeding two [2]* months.

Extent.

8. This Act shall not extend to the Islands of Bombay and Kolába.

Exemption of religious assemblages.

9. Nothing in this Act shall be held to apply to assemblages of people collected at, or concerned in, the inauguration of sacred edifices, or collected at, or concerned in, any other religious festivals or ceremonies not forming a part of a fair or market.

Saving of general powers of Government.||

10. Nothing in this Act shall be held to restrict the general powers of Government to control the orders of the [1][District Magistrate] or Commissioner [1]* * in regard to markets or fairs.

11. [*Meaning of "Magistrate."*] *Rep. Bom. Act III of 1886.*

BOMBAY ACT No. V OF 1862 [3].

[*24th April, 1862.*]

An Act for the preservation of the Bhágdárí and Narwádárí Tenures.

Preamble.

WHEREAS it has been found that the permanence of the tenures known as the bhágdárí and narwádárí tenures, which have existed from time immemorial in certain parts of the Presidency of Bombay, is endangered by the increasing

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[1] The words "District Magistrate" and the word and figure "section 4" were substituted for "Magistrate" and "this Act," respectively, and the words "of Police" after the word "Commissioner" in ss. 6 and 10 were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act I of 1904), Vol. IV of this Code.

[2] The words "of either kind" after the word "imprisonment" and the word "calendar" after the word "two" in s. 7 were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

[3] No Statement of Objects and Reasons was published. For the Bill as introduced, *see* Bombay Government Gazette, 1862, Supplement, p. 51; for Report of the Select Committee, *see ibid*, p. 79 and for Proceedings in Council, *see ibid*, pp. 50, 79 and 97.

Bom. Act 5 of 1862 has been declared not to be in force in the Pánch Mahálas—*see* the Pánch Mahál Laws Act, 1885 (7 of 1885), s. 2, Vol. I of this Code, p. 213.

practice of attachment and sale by civil process of the homesteads and building-sites ("gabhán") appertaining or appendant to the constituted bhágs or the recognized sub-divisions of such bhágs or shares, in bhágdárí or narwádárí villages;

and whereas it is desirable to prevent the alienation, assignment, mortgaging, charging or incumbering of any portion of any bhág or share in any bhágdárí or narwádárí village other than a recognized sub-division of such bhág or share, or the alienation, assignment, mortgaging, charging or incumbering of any homestead, building-site (gabhán), or premises appurtenant or appendant to any such bhág or share, or recognized sub-division separately or apart from such bhág or share or recognized sub-division;

It is therefore enacted as follows:—

No portion of bhág in bhágdárí or narwádárí village to be liable to seizure, etc by process of Civil Court.

1. No portion of a bhág or share in any bhágdárí or narwádárí village other than a recognized sub-division of such bhág or share shall[1] * * * * be liable to seizure, sequestration, attachment or sale by the process of any Civil Court, and no process of such Court shall be enforced so as to cause the dismemberment from any such bhág or share or recognized sub-division thereof, of any homestead, building-site (gabhán) or premises appurtenant or appendant to such bhág or share, or recognized sub-division thereof.

On issue of such process, Collector may move that it be set aside or quashed.

2. Whenever any process has issued out of any Civil Court for the seizure, sequestration, attachment or sale of any portion of a bhág or share in any bhágdárí or narwádárí village other than a recognized sub-division of such bhág or share, or for the seizure, sequestration, attachment or sale of any homestead, building-site (gabhán) or premises appurtenant or appendant to such bhág or share, or recognized sub-division thereof, it shall be lawful for the Collector or other chief revenue-officer of the district in which any such bhágdárí or narwádárí village is situated, although not a litigating party, to move in such Civil Court, that such process shall be set aside or quashed, and that the provisions of this Act be put in force;

Court to set aside process if case fall within Act.

and if such Court be of opinion, on the evidence adduced by the Collector or other chief revenue-officer of the district on such motion, that the case is one falling within this Act, it shall set aside or quash such process, and cause the provisions of this Act to be put in force; [2] * * * * any order which the said Court may make on such motion shall be appealable in the same manner as a decree of the Court in which it is made.

[1] The words "from and after the passing of this Act" were repealed by the Repealing Act, 1873 (12 of 1873).

[2] The words "and it is hereby further enacted that" were repealed by the Repealing Act, 1876 (12 of 1876).

Bar to alienation, etc., of any portion of bhág in bhágdárí or narwádárí village other than recognized sub-division thereof.

3. It shall not be lawful to alienate, assign, mortgage or otherwise charge or incumber any portion of any bhág or share in any bhágdárí or narwádárí village other than a recognized sub-division of such bhág or share, or to alienate, assign, mortgage or otherwise charge or incumber any homestead, building-site (gabhán) or premises appurtenant or appendant to any such bhág or share or recognized sub-division, appurtenant or appendant thereto, apart or separately from any such bhág or share, or recognized sub-division thereof.

Power to remove person in possession of portion of such bhág.

Any alienation, assignment, mortgage, charge or incumbrance, contrary to the provisions of this section, shall be null and void; and it shall be lawful for the Collector or other chief revenue-officer of the district, whenever he shall, upon due inquiry, find that any person or persons is or are in possession of any portion of any bhág or share of any homestead, building-site (gabhán) or premises appurtenant or appendant to such bhág or share in any bhágdárí or narwádárí village other than a recognized sub-division of such bhág or share, in violation of any of the provisions of this section, summarily to remove him or them from such possession, and to restore the possession to the person or persons whom the Collector shall deem to be entitled thereto;

Limitation of suit on Collector's order.

and any suit brought to try the validity of any order or orders which the Collector may make in such matter must be brought within three [1] * months after the execution of such order or orders.

Issue and execution of process in other respects authorized by law not barred.

4. * * * * * *[2] Nothing in this Act contained shall be construed as prohibiting the issue and execution of any such process as aforesaid against any bhág or share, or recognized sub-division of any bhág or share, in any such village as aforesaid, conjointly and in the gross with its homestead, building-site (gabhán) and other proper appurtenances, if the issue and execution of such process be in other respects authorized by law.

Alienation, etc., of bhág, or share, as aforesaid, if in other respects warranted by law, not barred.

5. * * * *[2] Nothing in this Act contained shall be construed as prohibiting the alienation, assignment, mortgaging, charging or incumbering any bhág or share, or recognized sub-division of any bhág or share, in any such village as aforesaid, conjointly and in the gross with its homestead, building-site (gabhán) and other proper appurtenances, if such alienation, assignment, mortgage, charge or incumbrance be in other respects warranted by law, the object and intention of this Act being to prevent the dismemberment of bhágs or shares, or recognized sub-divisions thereof, in bhágdárí or narwádárí villages and also to prevent the severance of homesteads, building-sites

[1] The word "calendar" was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act I of 1904), Vol. IV of this Code.

[2] The words in ss. 4 and 5, "And it is hereby further declared, that" were repealed by the Repealing Act, 1873 (12 of 1873).

(gabhán) or other premises, appurtenant or appendant to bhágs or shares, or recognized sub-divisions of bhágs or shares, from the same or any of them.

BOMBAY ACT No. VI OF 1862.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Power to make declaration vesting management of estates of táluqdár in officer appointed by Government.
2. After declaration, suits in respect of debts or liabilities in first section mentioned, other than debts to Government, to be permanently stayed.
3. Power to remove mortgagee or encumbrancer from possession of estates of táluqdár.
4. After declaration, táluqdár not liable to arrest in respect of debts other than debts due to Government.
5. During management, estates exempt from civil process in respect of debts and liabilities aforesaid.
6. Power to make and alter rules.
7. Managing officer to receive rents, profits and income; and pay for support of táluqdár and family, expenses of management; and settle debts and liabilities, in accordance with rules.
8. Managing officer to publish notice to claimants against táluqdár to notify claims.
   Publication of copies of notice.
9. Debt or liability not notified to be barred.
   Upon proof of inability of claimant to comply, claim may be admitted within further period of nine months.
10. Scheme for settlement of táluqdár's debts and liabilities.
    Amount of debt fixed in scheme not to be increased.
    Bar of debts disallowed.
11. Power to authorize raising of fund for settlement of debts and liabilities.
12. Debt or liability incurred by táluqdár during management not enforceable against estates.
    Incompetency of táluqdár to charge or alienate.
13. Civil Courts to give up writs, decrees, papers, etc., when required.
14. Power to officer to take evidence, and compel production of books, etc.,
15. Powers of managing officer for realizing rents and profits.
16. Management limited to twenty years, and, at its expiration, claims, etc. to be considered settled.
17. Power to appoint new officers.
18. Powers for enforcing payment of fines.
19. Suits cognizable by Civil Courts.
    Indemnity to Crown, Government or managing officer.
20. Proprietorship of táluqdár after termination of management.
21. Interpretation-clause.

BOMBAY ACT No. VI OF 1862.[1]

[*14th October, 1862.*]

An Act for the amelioration of the condition of táluqdárs in the Ahmadabad Collectorate, and for their relief from debt.

Preamble.

WHEREAS the lands held in the zila of Ahmadabad in the Province of Gujarát under the title of táluqdárí estates are now only held on leasehold tenure determinable at the pleasure of Government; and whereas it has been brought to the notice of Government that many of the táluqdárs are in embarrassed circumstances and have borrowed money on the security of their landed estates; and whereas such of the said landed estates as are of the táluqdári tenure aforesaid could not and cannot be lawfully charged, encumbered or alienated; and whereas it is expedient to enable the said táluqdárs to effect a settlement of their debts and liabilities; It is hereby enacted as follows:—

Power to make declaration vesting management of estates of táluqdár in officer appointed by Government.

1. Whenever it shall appear to the Governor in Council that any táluqdár in the zila aforesaid is subject either personally or in respect of his landed estates of any description of tenure to debts or liabilities equal to or exceeding five times the average rents, profits and other annual income derived by the táluqdár from his estates aforesaid during the previous five years after deducting thereout the land-tax and other dues of Government, it shall be lawful for the Governor in Council to make a [2] declaration vesting the management of the said estates in an officer [3] or officers who shall then be appointed by the Governor in Council in that behalf, and the said declaration shall be published in the Bombay Government Gazette.

After declaration, suits in respect of debts or liabilities in first section mentioned, other than debts to Government,

2. From and after the publication of said declaration as aforesaid, all suits or judicial proceedings for or in respect of debts or liabilities in the first section above-mentioned, other than debts due or liabilities incurred to the Crown or Government, pending before or under appeal from any of the Civil Courts in the said Presidency, shall be, and are hereby declared to be, permanently stayed, and no further prosecution thereof shall be permitted, and all writs,

[1] No Statement of Objects and Reasons was published. For the Bill as introduced, *see* Bombay Government Gazette, 1862, Supplement, p. 82; for Report of the Select Committee, *see ibid*, p. 107, and for Proceedings in Council, *see ibid*, pp. 82, 107 and 115.

As to the validity of Bom. Act 6 of 1862, so far as it purports to affect the High Court of Judicature at Bombay, *see* the Broach and Kaira Incumbered Estates Act, 1877 (14 of 1877), s. 39, Vol. I of this Code, p. 129.

[2] It is enacted in the Gujarát Táluqdárs Act, 1888 (Bom. Act 6 of 1888), Vol. III of this Code, s. 34, that no new declaration shall be made under s. 1 of Bom. Act 6 of 1862 at any time after six months from the date on which the former Act came into force (*i.e.*, the 25th March, 1889).

[3] As to the investment of the Táluqdárí Settlement-officer mentioned in the Broach and Kaira Incumbered Estates Act, 1881 (21 of 1881), s. 7, Vol. I of this Code, p. 172) with powers under this section, *see* Act 14 of 1877, s. 40 as amended by that Act, Vol. I of this Code, p. 129.

processes, executions or attachments for or in respect of such debts and liabilities shall forthwith cease and be raised. to be permanently stayed.

3. From and after the publication of such declaration, the said officer or officers shall have power, without resorting to any Civil Court, to remove from possession of the landed estates of the táluqdár of any description of tenure, or any part thereof, any mortgagee or other encumbrancer who may be in possession of the same, without prejudice to such mortgagee or encumbrancer bringing his claim under sections 8 and 9 before the officer or officers appointed for the management of the said estates. Power to remove mortgagee or encumbrancer from possession of estate of táluqdár.

4. From and after the publication of such declaration as aforesaid, the táluqdár, the subject of such declaration, shall not be liable to arrest, nor shall his personal estates of any description whatsoever be liable to seizure, attachment or sale under any process, decree, judgment or execution of the Civil Court of the Presidency of Bombay for or in respect of any debts or liabilities existing at the time of such declaration, other than debts due or liabilities incurred to the Crown or Government. After declaration, táluqdar not liable to arrest in respect of debts other than debts due to Government.

5. From and after the publication of such declaration as aforesaid, the landed estates of such táluqdár of any description of tenure and the rents, profits and income thereof shall, during the period of the management thereof by the said officer or officers, be wholly exempt from seizure, attachment or sale under or by virtue of any process, decree, judgment or execution of any Civil Court of the Presidency of Bombay for or in respect of the debts and liabilities aforesaid, other than debts due or liabilities incurred to the Crown or Government. During management, estates exempt from civil process in respect of debts and liabilities aforesaid.

6. It shall be lawful for the Governor in Council to make rules for the purpose of carrying this Act into effect, and from time to time to alter, vary or amend such rules as necessity may arise. Power to make and alter rules.

7. The said officer or officers shall, during the continuance of his or their management of the said estates, receive the whole of the rents, profits and income thereof, and shall defray thereout land-tax and other debts due or liabilities incurred, or hereafter respectively to grow due or to be incurred, to the Crown or Government, and pay to the táluqdár such annual sum only as shall appear to the Governor in Council requisite for the decent support of the táluqdár and his family, and any balance remaining after such payment as aforesaid shall be applied in discharge of the expenses of such management as aforesaid and in liquidation or settlement of the debts and liabilities to which at the time of the publication of the said declaration the táluqdár is subject Managing officer to receive rents, profits and income; and pay for support of táluqdár and family, expenses of management; and settlement debts and liabilities,

in accordance with rules.

either personally or in respect of his landed estates of any description of tenure, in accordance with the rules alluded to in the last preceding section.

Managing officer to publish notice to claimants against táluqdár to notify claims.

8. The said officer or officers shall publish in the Bombay Government Gazette a notice in English and Gujaráthi, calling upon all persons having claims against the said táluqdárs or their said landed estates in respect of any of the debts or liabilities aforesaid, to notify the same in writing to such officer or officers within three [1]* months' time from the time of such notice in the Gazette, and the said officer or officers shall, before or contemporaneously with such publications in the Gazette, cause copies of such notice to be exhibited at the mámlatdárs' kachahrís in the said zila and in such place or places as to such officer or officers shall seem fit and as may be directed by the said rules.

Publication of copies of notice.

Debt or liability not notified to be barred.

9. Any debt or liability of the táluqdár other than as aforesaid, to which he is subject, either personally or in respect of the said landed estates, existing at the time of the said declaration by the Governor in Council not duly notified to the said officer or officers within the time and in the manner in the last preceding sections specified, shall and is hereby declared to be for ever barred:

Upon proof of inability of claimant to comply, claim may be admitted within further period of nine months.

Provided always that, upon proof being given to the satisfaction of such officer or officers of the inability of the claimant to have complied with the provisions of this and the last preceding sections, it shall be lawful for the said officer or officers to entertain and admit such claim within the further period of nine [1]* months from the expiration of the above-mentioned period of three months.

Scheme for settlement of táluqdár's debts and liabilities.

10. The said officer or officers shall as early as possible prepare and submit to the Governor in Council a scheme for the settlement of the táluqdár's debts and liabilities, and such scheme, when approved by the Governor in Council shall be carried into effect.

Amount of debt fixed in scheme not to be increased.

The amount of any debt or liability as fixed in such approved scheme shall not be liable to increase.

Bar of debts disallowed.

Any debt or liability disallowed by such officer or officers shall, if such disallowance be approved by Government, be and it is hereby declared to be forever barred.

Power to authorise raising of fund for settlement of

11. It shall be lawful for the Governor in Council to empower the officer or officers aforesaid to raise a fund to be applied to the settlement of the debts and liabilities of the táluqdár by assigning the whole or a portion of his landed

[1] The word "calendar" was repealed by the Bombay General Clauses Act, 1886 (Bom Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. I of 1904) Vol. IV of this Code.

estates of any description of tenure to be held and enjoyed, for a period or periods not exceeding twenty years from the publication of the declaration aforesaid, by any fit person or persons who may advance money on the security thereof, or by the sale of such outlying portion or portions of the said estates as may appear expedient; but in case of such sale the consent of the táluqdár and of his next heir, if the latter be of age, shall first be obtained. debts and liabilities.

12. Any debt or liability, except as hereinbefore excepted, which may be incurred by the táluqdár, either personally or in respect to his said landed estates or any part thereof, during the period of such management as aforesaid, shall not be enforceable in any manner whatever, either during or subsequently to such period of management, against his said landed estates or any part thereof, and it shall not be competent for the táluqdár during the said period of management to charge, encumber, sell or alienate his said landed estates or any part thereof, and such charge, encumbrance, sale or alienation shall be null and void. Debt or liability incurred by táluqdár during management not enforceable against estates.

Incompetency of táluqdár to charge or alienate.

13. *It* shall be lawful for every officer or officers appointed under this Act to demand and require the production of any writs, decrees, judgments, records, deeds, documents, exhibits, pleadings, books, accounts, letters, petitions, papers or writings filed in any of the suits mentioned in the second section of this Act, or relating to the debts or liabilities of any táluqdár whose landed estates are brought under such management as aforesaid, in the custody or control of any Civil Court, or in the custody or control of any Judges, Judge, Assistant Judge, officer or person connected with such Court, and upon notice being given in writing by such officer or officers to such Civil Court or to any Judges, Judge, Assistant Judge, officer or person connected therewith, such writs, decrees, judgments, records, deeds, documents, exhibits, pleadings, books, accounts, letters, petitions, papers or writings in the said notice mentioned shall be immediately given up to the said officer or officers appointed under this Act, in the manner directed by the said notice, any act, usage or custom to the contrary in any wise notwithstanding. Civil Courts, to give up writs, decrees, papers, etc., when required.

14. It shall be lawful for any officer or officers appointed under this Act to summon witnesses and to take evidence, [1] * * * * * * * *, and it shall also be lawful for the said officer or officers to compel the production of books, Power to officer to take evidence, and compel production of books, etc.

[1] The words " upon oath or solemn affirmation and to administer oaths or solemn affirmations to persons whom he or they may admit to give evidence and any such witness wilfully giving false evidence shall be subject to be proceeded against in like manner and to suffer if convicted the same punishment as if he or she had committed wilful and corrupt perjury " were repealed by the Repealing Act, 1876 (12 of 1876).

accounts, papers, deeds or other documents, and to inflict a fine not exceeding rupees one hundred for disobedience to any sanad or order made under this section.

Powers of managing officer for realising rents and profits.

15. The officer or officers appointed for the management of the landed estates of any táluqdár under this Act shall have, for the purpose of the realization and recovery of the rents, profits and income of such landed estates, the same powers as a Collector possesses under the Regulations or Acts now or hereafter in force for the realization and recovery of land-revenue due to Government.

Management limited to twenty years, and, at its expiration, claims, etc., to be considered settled.

16. The management of the landed estates of any táluqdár by such officer or officers as aforesaid shall not extend beyond the period of twenty years, to be calculated from the first publication of such declaration as aforesaid in the Bombay Government Gazette, and at the expiration of such management whether before or at the end of such period of twenty years, all debts and liabilities (except as hereinbefore excepted) existing at the time of such declaration, and comprised in such approved scheme as aforesaid, shall be deemed to be for all intents and purposes whatsoever fully discharged and satisfied, and neither the táluqdár nor his heirs nor representatives, nor his her nor their estates, whether moveable or immoveable, or any part thereof shall be subject in any manner whatsoever to such debts or liabilities (except as hereinbefore excepted) or any part thereof.

Power to appoint new officers.

17. It shall be lawful for the Governor in Council from time to time to appoint new officers to carry this Act into effect, and all such officers shall have the same powers as the officer or officers first appointed.

Powers for enforcing payment of fines.

18. Officers appointed under this Act shall have the same powers for enforcing the payment of fines imposed under this Act as are given to Courts by [1] section 61, Act XXV of 1861.

Suits cognizable by Civil Courts.

19. Notwithstanding anything to the contrary in this Act, it shall be lawful for the Civil Courts to entertain and dispose of suits relating to the succession to, or rights of coparcenary in, or rights of persons claiming maintenance out of, any landed estate or estates brought under the operation of this Act:

Indemnity to Crown, Government or managing officer.

Provided always that neither the Crown nor Government, nor any officer or officers appointed under this Act, shall be liable to any suit for or in respect of any act or acts done in good faith by such officer or officers.

[1] *See* now s. 386 of the Code of Criminal Procedure, 1898 (Act 5 of 1898), as modified up to 1st April, 1903.

Proprietorship of táluqdár after termination of management.

20. From and after the expiration of the period of management of the estate of any táluqdár, whether such period extend to, or be less than, twenty years, the táluqdár shall be the absolute proprietor of his said landed estates as regards succession to, and possession, management and transfer of, the same, subject to such land-tax as the Governor in Council may be pleased to reserve and all usual remedies for the recovery thereof.

Interpretation-clause.

21. * * * *[1] In this Act, [1]* * * * unless there be something in the subject or context repugnant to such construction, * * * * *[1]

(*1*) the term "Civil Court" shall mean and include every Court of Civil Judicature in the Presidency of Bombay whether established by Royal Charter or not.

(*2*) *and* (*3*) [*Rep. Bom. Act III of 1886.*]

BOMBAY ACT No. I OF 1863.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Vessels to be registered and marked with number, burthen and indication of place of registry.
2. Name, number, burthen, etc., to be registered.
3. Owner to apply for certificate of registry.
   Renewal of lost certificate.
4. Fees for registration.
5. Production of certificate of registration.
6. Penalty for infringement.
7. Fees and fines aforesaid how applied.
8. Establishment of pilots and pilot-boats to be maintained.
9. Fees for vessels piloted.
10. Establishment at what places to be available.
11. Fees for vessels piloted through channels.
12. Penalty for non-payment of fees.
13. Expenditure of fees and fines realized.
14. Account to be kept of moneys received and expended.
15. Commissioner in Sindh to appoint and suspend persons and to make necessary rules.
16. [*Repealed.*]
17. Construction.
18. } [*Repealed.*]
19. }

[1] The words "the following words and expressions" before "In", the words "shall have the meaning hereby assigned to them", after the word "Act," and the words "(that is to say)" after the word "construction" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act I of 1904), Vol. IV of this Code.

BOMBAY ACT No. I OF 1863.[1]

[*2nd February, 1863.*]

An Act for the registry of vessels and levy of pilotage-fees on the river Indus.

Preamble.

WHEREAS it is expedient to provide for the registry of vessels plying on the river Indus and its tidal channels within the Province of Sindh, and for the establishment of competent pilots, and for the levying of fees in respect of the same; [2] * * * * * It is enacted as follows:—

Vessels to be registered and marked with number, burthen and indication of place of registry.

1. Every vessel plying on the river Indus and its tidal channels within the Province of Sindh shall be registered by an officer appointed for the purpose, who shall be called the Registrar of boats, and every vessel so registered shall be marked or branded with a number, the registered burthen and a letter or letters indicating the place of registry.

Name, number, burthen, etc., to be registered.

2. The name and number and burthen of every vessel plying as aforesaid, and the name of the owner thereof, shall be registered in a book kept for that purpose by the Registrar of boats; and whenever any change shall take place in the burthen of such vessel plying as aforesaid, or in the name or names of the owner thereof, such vessel shall be again registered.

Owner to apply for certificate of registry. Renewal of lost certificate.

3. The owner of every vessel plying as aforesaid shall apply to the Registrar of boats and obtain from him a certificate of registry as aforesaid; and in the case of any certificate being lost or destroyed, a renewed certificate may be obtained in the same manner, and on the payment of the fees hereinafter mentioned.

Fees for registration.

4. The owner of every vessel registered as aforesaid shall annually or otherwise pay such[3] fees as the Governor in Council may, from time to time, direct by notification in the Government Gazette.

Production of certificate of registration.

5. The owner or person in charge of every vessel plying as aforesaid shall produce, when required by any public officer, the certificate of registry of such vessel.

Penalty for infringement.

6. In case any vessel plying as aforesaid shall not be registered, marked or branded, in all respects as hereinbefore directed, or

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1862, Supplement, p. 422; for Report of the Select Committee, *see ibid*, p. 588; and for Proceedings in Council, *see ibid*, pp. 583 and 797.

[2] The words "And whereas it is expedient to indemnify certain officers in respect of acts done by them, in pursuance of the orders of the Commissioner in Sindh" were repealed by the Repealing Act, 1873 (12 of 1873).

[3] *See* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. XXXVII.

in case such vessel shall not be furnished with a proper certificate of registry, or

in case the owner or person in charge of such vessel shall not produce such certificate when required as aforesaid,

the owner or person in charge of such vessel shall, on conviction thereof before a Magistrate, [1] * * * * * * be liable to a fine not exceeding ten times the amount of the fees payable annually in respect of the registry of such vessel, which fine, if not paid, may be recovered by sale of such vessel, her furniture, ammunition, tackle and apparel.

Fees and fines aforesaid how applied.

7. The sums realized from the fees and fines aforesaid shall be expended in removing obstructions from the channels of the river Indus, and in other ways improving the navigation of that river.

Establishment of pilots and pilot-boats to be maintained.

8. There shall be maintained such establishment of pilots and pilot-boats near the mouths of the river Indus, as the Commissioner in Sindh may, from time to time, direct.

Fees for vessels piloted.

9. The person in charge of a vessel passing through any of the channels at the mouths of the river Indus shall pay to the officer duly authorized by the Registrar of boats, such fee as the Governor in Council may, from time to time, direct by [2] notification in the Government Gazette, and in consideration of such payment shall receive the services of a pilot.

Establishment at what places to be available.

10. The establishment of pilots and pilot-boats shall, when necessary, be available at such place or places on the tidal channels between the port of Gizri and the river Indus as the Commissioner in Sindh may, from time to time, direct.

Fees for vessels piloted through channels.

11. The person in charge of a vessel passing through any of the tidal channels aforesaid shall pay to the officer duly authorized by the Registrar of boats, such fee as may, from time to time, be fixed under the provisions of section 9 * * * * * [3], and in consideration of such payment shall receive the services of pilots.

Penalty for non-payment of fees.

12. In case the person in charge of such vessel as aforesaid shall refuse or neglect to pay the fee payable in respect of the pilotage of such vessels, such person shall, on conviction thereof before a Magistrate, * * * * * * [3] be liable to a fine not exceeding ten times the amount of the said fee;

[1] The words "Justice of the Peace, or person exercising the powers of a Magistrate within the Province of Sindh," were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act I of 1904), Vol. IV of this Code.

[2] *See* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. XXXVII.

[3] The words "of this Act," in s. 11, and the words "Justice of the Peace, or persons exercising the powers of a Magistrate within the Province of Sindh," in s. 12 were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

and such fine, if not paid, may be recovered by sale of such vessel, her furniture, ammunition, tackle and apparel.

Expenditure of fees and fines realised.

13. The sums realized from fees for pilotage and from fines for non-payment thereof shall be applied, under the orders of the Commissioner in Sindh, towards the maintenance of an establishment of pilots and pilot-boats, the erection and maintenance of beacons, and generally as may best conduce to the safe passage of vessels through the mouths and tidal channels of the river Indus.

Account to be kept of moneys received and expended.

14. An account shall be kept under the orders of the Commissioner in Sindh of all sums of money received and expended under the provisions of this Act; and a statement of the same shall be published every year in the Government Gazette.

Commissioner in Sindh to appoint and suspend persons and to make necessary rules.

15. It shall be lawful for the Commissioner in Sindh, with the sanction of the Governor in Council, from time to time, to appoint such person or persons, and to suspend and remove the same, and to make such rules [1] as may be necessary for carrying out the provisions of this Act: Provided that all such rules shall be notified in the Government Gazette.

16. [*Indemnity.*] *Rep. Act XII of 1873.*

Construction.

17. A barge or flat towed by a steamer, and plying in no other manner shall not for the purposes of this Act be considered a vessel.

18. [*Interpretation.*] *Rep. Bom. Act III of 1886.*

19. [*Commencement.*] *Rep. Act XII of 1873.*

BOMBAY ACT No. II OF 1863.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Power to authorize and guarantee continuance in perpetuity of land to revenue-free holders on terms and conditions agreed to.

Exceptions.

2. Such lands (subject to enactments in section 3) to be heritable and transferable property of holders and continued in perpetuity, subject to payment to Government of nazrána and quit-rent.

Rules for ascertaining amount of assessment.

3. Adjustment, so far as right of Government to levy nazrána and quit-rent, binding on holder and rightful owner and assigns.

Saving of rights and remedies of rightful owner, his heirs and assigns.

[1] *See* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. XXXVII.

SECTIONS.

4. Such lands, so far as rights of Government are concerned, to be recognized as heritable and transferable property of actual and legal successor by inheritance and heirs by adoption.
Lands adjudicated to be heritable to be held subject to payment of additional nazrána.
Proviso.
5. Provisions in respect of amount of nazrána when it exceeds ten rupees.
Occasional nazrána.
Proviso.
Proviso.
Occasional nazrána from whom to be levied.
Person obtaining possession to give notice to Collector, etc.
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6. Holders asserting right to exemption may claim trial of, and adjudication upon, their title according to Act XI of 1852.
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If no holder or owner discovered, land t- e fully assessed.
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After answer demanding inquiry, security to be taken.
Claim to be referred to officer.
Time to be fixed.
Claimant allowed benefit of evidence to be found in Government records in custody of such public officer.
12. [*Repealed.*]
13. Appeal from proceedings of officers making adjustment to be made to Governor in Council.
14. [*Repealed.*]
15. Quit-rents, nazránas, etc., how levied.
16. Interpretation-clause.

BOMBAY ACT No. II OF 1863.[1]

[*9th April, 1863.*]

An Act to facilitate the adjustment of unsettled claims to exemption from the payment of Government land-revenue, and to regulate the succession to, and transfer of, lands wholly or partially exempt from the payment of such revenue in those parts of the Bombay Presidency which are subject to the operation of Act XI of 1852[2] of the Legislative Council of India.

Preamble.

WHEREAS it has been deemed expedient to provide for the final adjustment, summarily, of unsettled claims to exemption from the payment of land-revenue, and to fix the conditions which shall secure, in certain cases, the recognition of titles to such exemption with respect to succession and transfer in those districts of the Bombay Presidency to which the operation of Act XI of 1852 [2] of the Legislative Council of India extends; It is hereby enacted as follows :—

Power to authorise and guarantee continuance in perpetuity of land to revenue-free holders on terms and conditions agreed to.

1. *Clause 1st.*—When the holders of lands in any of the said districts (except as is excepted in clause second of this section), held either wholly or partially exempt from the payment of Government land-revenue, whose title to exemption has not yet been formally adjudicated, shall have consented to submit to the terms and conditions hereinafter described, in preference to being obliged to prove their title to the exemption enjoyed by them, it shall be lawful for the Governor in Council to finally authorize and guarantee the continuance, in perpetuity, of the said land to the said holders, their heirs and assigns, upon the said terms and subject to the said conditions.

Exceptions.

Clause 2nd.—The excepted cases to which the authority of adjustment and guarantee, vested in the Governor in Council by this provision, shall not extend, are the cases of lands held as follows :—

1st, lands held under treaty:

2nd, lands granted or held as jágírs or saranjáms, or on similar political tenure:

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1862, Supplement, p. 360; for Report of the Select Committee, *see ibid*, p. 719, and for Proceedings in Council, *see ibid*, p. 444, *ibid*, 1863, pp. 66, 182 and 201.

As to the application of this Act, *see* the Bombay Land-revenue Code, 1879 (Bom. Act 5 of 1879), s. 127, *infra*, p. 631.

[2] Titles to rent-free lands, Vol. I of this Code, p. 53.

3rd, lands held for service:

4th, lands already formally adjudicated to be not continuable hereditary.

Such lands (subject to enactments in section 3) to be heritable and transferable property of holders and continued in perpetuity, subject to payment to Government of nazrána and quit-rent.

2. When the Governor in Council shall have finally authorized and guaranteed the continuance, in perpetuity, to the holders, their heirs and assigns, of lands wholly or partially exempt from the ordinary payment of annual land-revenue, whose title to exemption has not already been formally adjudicated and who have dispensed with an inquiry into such title, the said lands shall (subject to the enactments contained in section 3 * * *[1] be the heritable and transferable property of the said holders, their heirs and assigns, without restriction, as to adoption, collateral succession or transfer; and such lands shall thenceforth be continued, in perpetuity, subject to an annual payment to Government. Such payment shall consist of—

1st, a fixed annual payment as nazrána, in commutation of all claims of Government in respect of succession and transfer, and shall be calculated at the rate of one anna for each rupee of assessment;

2nd, of a quit-rent equal to one-fourth of the assessment.

Rules for ascertaining amount of assessment.

The said assessment shall be ascertainable under the following rules:—

Rule 1.—The assessment of lands other than those specified in Rule 2 shall, with respect to lands which have already been assessed by the revenue-survey, now in progress, be the assessment already imposed upon those lands by that revenue-survey, and with respect to lands which have not yet been assessed by that revenue-survey shall be such assessment as shall be agreed on by the Collector or settling officer and the owner or holder of the lands which shall be final;

and, in failure of their agreement, it shall be the existing rental of the lands until the revenue-survey now in progress shall have placed a new assessment thereon, after which the assessment so placed by the said revenue-survey shall be understood to be the assessment.

And it shall be lawful for the duly authorized officers of Government employed in the said revenue-survey to enter upon all lands not heretofore assessed by such revenue-survey for the purpose of fixing and making an assessment thereof, provided no arrangement can be otherwise arrived at by the Collector and the owner or holder, as above provided, to ascertain the fair rental of the lands.

Rule 2.—The assessment of lands of such an exceptional character as not

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

to be assessable under the revenue-survey rules shall be in the discretion of the revenue-officers of Government, which discretion shall be guided, so far as may be, by the rate at which similar land in the same district belonging to Government is let, due regard being had by the said revenue-officers to all equitable considerations affecting such lands.

Shares of the revenues of villages (such as amals) shall be assessed for the purposes of this Act at the value thereof, calculated at the average shown by such accounts of actual realizations by the holders as are forthcoming for the ten years immediately preceding the promulgation of these rules.

Rule 3.—Lands for which a júdí, sálámí or other quit-rent or land-tax under whatever denomination, is already paid to Government, instead of being liable to only one-fourth of the assessment, shall in addition to the annual amount of such júdí, sálámí, quit-rent or other tax aforesaid, be liable to a further annual quit-rent, equal to one-fourth of the sum by which the annual or average annual amount of such júdí, sálámí or other quit-rent or tax aforesaid may fall short of the assessment.

Rule 4.—Quit-rent and annual nazrána imposed under this section (section 2) and the rules thereunto annexed shall be fixed in perpetuity, and shall not be liable to increase or decrease on any new assessment, save so far as is above in rule 1 of this section (section 2) provided to the contrary, in the case of lands which have not been already assessed by the revenue-survey now in progress.

Rule 5.—The whole of the exempt lands found in the possession of each holder shall be continued according to the provisions of this section (section 2) and the rules thereunto annexed, and subject to the enactments contained in section 3.

Adjustment, so far as right of Government to levy nazrána and quit-rent, binding on holder and rightful owner and assigns.

3. Any adjustment made by the Governor in Council with the holder of land held wholly or partially exempt from the payment of land-revenue, in accordance with section 2 * * * [1] and the rules annexed to the said section, shall, so far as the right of Government to levy the nazrána and the annual quit-rent mentioned in the said section is concerned, not only be binding upon such holder, his heirs and assigns, but also on the rightful owner, his heirs and assigns, whosoever such rightful owner may be:

Saving of rights and remedies of

Provided always that the said rightful owner, his heirs and assigns, shall not, by this Act or anything therein contained, be deprived of any rights or

[1] The words " of this Act " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

remedies [1] * * * * * to which he or they would be entitled against the said holder, his heirs or assigns for the recovery of the said lands or any part thereof if this Act had not been passed ; rightful owner, his heirs and assigns.

and in the event of the rightful owner, his heirs or assigns recovering the said lands or any part thereof, from the said holder, his heirs or assigns, any declaration, guarantee or adjustment made by the Governor in Council under, or in accordance with, sections 1 and 2 * * *[2] and the rules annexed to the said section 2 with respect to the said lands while the same were in the possession of the said holder, shall accrue to the benefit of the said rightful owner, his heirs and assigns.

4. Lands held partially or wholly exempt from the payment of land-revenue, and already formally adjudicated to be so continuable hereditarily in perpetuity, may, at the option of the holder, be henceforth recognized, so far as the rights of Government are concerned, as the heritable and also the transferable property, not only of the actual descendants of the person to whose descendants inheritance may have been limited by the terms of the said adjudication, but also of all his legal successors by inheritance, including heirs by collateral successions and heirs by adoption, and their assigns ; Such lands, so far as rights of Government are concerned, to be recognized as heritable and transferable property of actual and legal successors by inheritance and heirs by adoption.

and thereafter the right of Government or its officers to question the title to possession, or to exemption from the payment of land-revenue, of any holder of the said land already so adjudicated to be heritable in perpetuity on the ground that he does not belong to the family to which title is restricted by the adjudication, is hereby abrogated ;

and, in any case of recognition as in this section aforesaid, lands already adjudicated to be heritable, and to which such recognition applies, are henceforth to be held subject to the payment to Government of an annual nazrána, calculated at the rate of one anna for each rupee of the assessment of the land, ascertainable as provided in the rules of section 2 * * *[2], which nazrána is to be in addition to the partial assessment (if any) ordered by the terms of the formal adjudication under which the land has already been declared to be continuable : Lands adjudicated to be heritable to be held subject to payment of additional nazrána.

Provided, however, that the assent of the holder of all lands adjudicated as aforesaid to the acceptance of such recognition and the payment of such nazrána as in this section as aforesaid shall be assumed, unless such holders Proviso.

[1] The words "either at law or in equity" were repealed by the Repealing Act, 1876 (12 of 1876).

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. III of this Code.

shall within three (3) [1] * months from the date on which this Act comes into operation decline to accept such recognition as aforesaid by a notice given in writing to the Collector of the district.

Provisions in respect of amount of nazrána when it exceeds ten rupees.

5. *Clause 1st.*—When the amount of the annual nazrána payable for any holding in accordance with section 2 or section 4 * * *[2] respectively exceeds the sum of ten rupees, it shall be at the option of the holder of the land on account of which the said nazrána is declared payable, if he be not merely a mortgagee, to elect within two *[1] months after service of a notice explaining the purport and effect of the rules contained in this section (section 5), which service shall be made in the same manner as is hereinafter provided for the service of the notice described in section 11 * * *[2] that in lieu of the land being made subject to the payment of such annual nazrána, an occasional nazrána shall be payable at each change of possession thereof, or of any part thereof, by inheritance or transfer, the amount of which nazrána shall be—

Occasional nazrána.

(*a*) on every succession by inheritance, a nazrána equal to one year's assessment of the wholly or partially exempt lands which are the subject of such succession :

(*b*) on every transfer of lands wholly or partially exempt from the payment of land-revenue, a nazrána equal to two years' assessment of the land transferred.

The assessment shall be, in each case, ascertainable under the rules annexed to section 2 * * *[2] :

Proviso.

Provided that, in the event of more than one succession or transfer occurring within twelve months, such occasional nazrána [3] [on] succession or transfer shall not be leviable more than once :

Proviso.

Provided also that it shall be at the option of the holder of the land to pay such occasional nazrána in one sum or by annual instalments not exceeding one-fourth of the whole nazrána per annum.

Occasional nazrána from whom to be levied.

Clause 2nd.—When, at the election of the holder, lands wholly or partially exempt from the payment of land-revenue shall have been made liable to occasional nazrána leviable under this section (section 5), instead of to an annual nazrána of one anna in each rupee of the assessment as provided by

[1] The word "calendar" was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

[3] The word "on" was substituted for the word "or" by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

sections 2 and 4 * * *[1], the occasional nazrána shall be levied from each person obtaining possession of the land to which it is subject, whether by inheritance or transfer;

Person obtaining possession to give notice to Collector, etc

and it shall be the duty of that person, within the period of one [2]* month after obtaining possession as aforesaid, to give notice in writing thereof to the Collector or other chief revenue-officer of the [3]* * * district in which the said lands are situate; and, in default of such notice, the person so obtaining possession shall forfeit, in addition to the nazrána leviable on the occasion, a sum equal to the amount thereof.

Holder of land paying occasional nazrána to give notice to Collector, etc., of transfer.

Clause 3rd.—It shall also be the duty of the holder of any land made subject under this section to the payment of occasional nazrána instead of to an annual nazrána of one anna in each rupee of the assessment, who shall transfer the same or any part thereof, to give to the Collector or chief revenue-officer of the * * *[3] district in which the lands so transferred are situate, notice in writing of such transfer, and of the nature and extent thereof, and of the person or persons to whom the same is made, within one [2] * month after such transfer has been made; and, in default of such notice, the person or persons so transferring as aforesaid shall forfeit a sum equal to the amount of the nazrána leviable on the occasion from the person to whom the transfer shall have been made.

Holders asserting right to exemption may claim trial of, and adjudication upon, their title according to Act XI of 1852.

6. *Clause 1st.*—When lands are held wholly or partially exempt from the payment of land-revenue, upon the title to which exemption there has not been any formal adjudication, the holders asserting a right to such exemption shall be at liberty, on the conditions hereinafter described, to claim a trial of, and adjudication upon, their title, according to Act XI of 1852,[4] so far as the same is not altered, modified or superseded by, or inconsistent with, the provisions of this Act.

Effect of exemption being established.

Clause 2nd.—In the event of the title to such exemption being upon such inquiry demanded as last aforesaid duly established, the land shall not be heritable in any other manner, or to any further extent than the same may, on such inquiry as last aforesaid, be adjudged to be heritable; nor shall any

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The word "calendar" was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

[3] The words "Collectorate or" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

[4] Vol. I of this Code, p. 53.

adoption be recognised in any Civil Court [1] * * * * or by any officer of Government, as creative of, or continuing, a title to claim from Government any exemption from assessment or any other privilege on account of the said lands; and no nazráua shall be received on account of Government from the holders of such lands.

And whensoever the same lands or any part thereof, either by operation of law, or by devolution, assignment, gift, sale (whether such sale be judicial, public or private) devise, transfer-deed or other instrument, or otherwise howsoever, pass to any person, not an heir by actual descent from the person to whose heirs the lands shall be declared heritable, or in default of such declaration, from the person who may establish his title to exemption as last aforesaid, then the said lands, or such part thereof as may have so passed to any person other than the said actual descendants, shall forthwith become and be liable to payment of annual land-revenue at the full assessment.

Effect of exemption not being established.

Clause 3rd.—In the event, upon such enquiry as aforesaid, of there being a failure by the holders to establish title to exemption from payment of land-revenue, the lands to which he has failed to establish such title shall forthwith become and be liable to payment of annual revenue at the full assessment.

When holders demand trial and adjudication, security to be furnished.

7. *Clause 1st.*—When the holders of land, held wholly or partially exempt from the payment of land-revenue, demand a trial and adjudication of their title under the provisions of section 6 * *[2], they shall be required to furnish satisfactory security for the payment of the assessment of the land, in case of their failure to prove the title to exemption asserted by them; and, in default of their furnishing such satisfactory security, the full assessment of the land which is to be the subject of inquiry shall be levied pending the adjudication.

Refund of assessment with interest, if holder prove title.

Clause 2nd.—If the inquiry result in the establishment of the asserted title, the holder, or, in the event of his decease, his heir who succeeds to possession of the said land, shall be entitled to a refund of any assessment levied under the provisions of this section, pending such inquiry as aforesaid and to interest thereon at the rate of five per cent. per annum.

Full amount of land-revenue to be

Clause 3rd.—If the result of the inquiry be that the holder fail to prove his title, the full amount of land-revenue assessable on the lands from the date

[1] The words "or Court of Law or Equity" were repealed by the Repealing Act, 1876 (12 of 1876).

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

of the holder's demand for trial shall be levied from the said holder and his security, or either, any sums levied pending adjudication as aforesaid being taken in account of the same.

paid, if holder fail to prove title.

8. *Clause 1st.*—Lands held wholly or partially exempt from the payment of land-revenue on behalf of religious or charitable institutions shall, if already formally adjudicated to be permanently so continuable, be so continued wholly or partially exempt from such payment of land-revenue as aforesaid, according to the terms of the adjudication.

Lands held on behalf of religious or charitable institutions.

Clause 2nd.—Lands held on behalf of religious or charitable institutions, either wholly or partially exempt from the payment of land-revenue, shall, if not already formally adjudicated to be permanently so continuable, be declared to be so wholly or partially exempt from such payment of land-revenue as aforesaid; subject, however, to the payment of annual quit-rent equal to one-fourth of the assessment, which shall be ascertainable under the rules annexed to section 2. * * *[1]

Clause 3rd.—It is, however, hereby declared that lands held on behalf of religious or charitable institutions wholly or partially exempt from the payment of land-revenue, shall not be transferable from such institutions either by assignment, sale (whether such sale be judicial, public or private), gift, devise or otherwise howsoever, and no nazrána shall be leviable on account of such lands.

Clause 4th.—If the holders, managers or trustees of such lands shall refuse to accept the terms provided by clause 2 of this section, and shall demand a trial and adjudication of the title by which the land is held wholly or partially exempt from land-revenue, they shall be entitled to the same, on the conditions described in section 7 and subject to the liabilities provided in section 6. * *[1].

9. It shall be lawful for the Governor in Council to appoint officers to carry out the inquiries provided for in this Act in the districts in which Act XI of 1852[2] has the force of law, and to invest any officer so appointed with the authority conferred by the above Act on Inam Commissioners and Assistant Inám Commissioners.

Power to invest officers with authority of Inám Commissioners and their assistants.

10. Whensoever any person, or persons, holding lands wholly or partially exempt from the payment of land-revenue, upon the title to which exemption

Burden of proof in cases of enquiries

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] Vol. I of this Code, p. 53.

under section 6.

there has not been any formal adjudication, shall (whether such alleged title be founded on grant or prescription, or on any other ground whatsoever) demand an inquiry under section 6 * * [1] into such title, the burden of proof of such title shall, in every instance, lie and be cast exclusively upon the person or persons holding, or claiming to hold, such lands so wholly or partially exempt from the payment of land-revenue as aforesaid, notwithstanding any existing usage, law, Regulation, Act or Statute in anywise to the contrary ;

and it shall not be lawful for any Civil Court* * * * [2] to place the burden of proof upon Government, or upon the officer or officers representing Government, of a right to levy the ordinary land-revenue upon the lands the subject of any such inquiry as aforesaid, and it shall in every instance be presumed, until the contrary is distinctly proved, that Government has the right to levy such ordinary land-revenue upon the lands the subject of any such inquiry as aforesaid.

It is, however, hereby further provided that nothing in this section contained shall disentitle Government, or its duly authorized officers, to produce and give evidence in rebuttal or disproof of the alleged title to exemption aforesaid, if it seem to Government, or its duly authorized officers, desirable or necessary to produce and give such evidence.

Collector or other officer may serve notice on holder of lands, asking whether or not he demands inquiry under section 6.

11. *Clause 1st.*—It shall be lawful for the Collector of each [3]* * district, or for any other officer of Government duly authorized in that behalf, whensoever such Collector or such other officer shall have reason to believe that lands are held wholly or partially exempt from payment of land-revenue, and that there has not been any formal adjudication upon the title to such exemption, to serve, or to cause to be served, a notice in writing, upon the holder of such lands, calling upon him to state whether or not he demands an inquiry under section 6 * * * [1] into such alleged title to exemption as aforesaid, instead of accepting and abiding by the terms described in section 2. * * *[4]

Language

Clause 2nd.—The notice shall be in the prevailing language of the [3] * * *

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words " or Court of Law or Equity " were repealed by the Repealing Act, 1876 (12 of 1876).

[3] The words " Collectorate or " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

[4] The words " of the same " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

district in which the lands are situate, and shall explain the nature of the alternatives offered on the part of Government. and form of notice.

Clause 3rd.—It shall be served upon the person holding, or registered in the Government land-registers as holding, the lands wholly or partially exempt from the land-revenue as aforesaid, if he be resident within the limits of the [1][district]. On whom to be served.

Clause 4th.—If such persons as last aforesaid be not resident within the [2] [district], the notice shall be served upon any person acting for the aforesaid in respect of the lands. Service on non-resident persons.

Clause 5th.—When more persons than one hold jointly lands wholly or partially exempt from land-revenue, service of notice upon any one of them shall in every case be sufficient. Service when several persons hold lands jointly.

Clause 6th.—If the holder be known to reside in another [2][district] of the Bombay Presidency, and if there be no person acting for him in the [2][district] in which the lands are situate, the notice shall be sent to the Collector of such other [2][district] and served or caused to be served by him. Service when holder known to reside in another district.

Clause 7th.—If there be not any person acting for the holder, and if he cannot be found, the notice shall be served upon some one of the actual occupants of the land (if any), and a copy of such notice shall be posted in the office of the chief native revenue-officer of the district, and in the chauri or most public place in the village where the lands are situate. When no person acts for holder and holder cannot be found.

Clause 8th.—In the event of any dispute arising as to the sufficiency of the service of any notice or notices under this section, the matter so in dispute shall be inquired into by the Collector of the district or other officer appointed for the purpose by the Governor in Council, and the decision of the Collector or such other officer as aforesaid shall be final, and not open to appeal or question in any Civil Court [3] * * * * or elsewhere. Inquiry when sufficiency of service of notice disputed.

Clause 9th.—If within two [4] * months after the service of such notice in manner aforesaid, the person holding the lands wholly or partially exempt from revenue as aforesaid, or his legally constituted agent, shall not give an answer in writing to such notice, stating clearly in such answer that he Holder making no answer for two months, deemed to have dis-

[1] The word "district" in clause 3rd of s. 11 was substituted for the word "Collectorate" by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

[2] The word "District" in clauses 4th and 6th was substituted for the word "Collectorate" by the Bombay General Clauses Act, 1886 (Bombay Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[3] The words "or Court of Law or Equity" were repealed by the Repealing Act, 1876 (12 of 1876).

[4] The word "calendar" was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

pensed with inquiry.

demands an inquiry into the title to such exemption as aforesaid, he shall be deemed to have finally dispensed with such inquiry, and the lands, if held as aforesaid by an individual or individuals, shall be dealt with under sections 1 and 2* *[1] and the rules annexed to said section 2, and, if held on behalf of religious or charitable institutions, shall be dealt with under clause 2 of section 8. * *[1]

If no holder or owner discovered, land to be fully assessed.

But, if no holder or owner can be discovered, the land shall be fully assessed to the public revenue, and shall continue to be so assessed unless some person shall, within the law of limitations, appear and prove his title to it.

Inquiry when sufficiency of answer to notice disputed.

Clause 10th.—In the event of any dispute arising as to the sufficiency of any such answer as last aforesaid, or as to its meaning, or as to its having been given within the time required by this Act, the matter so in dispute shall be inquired into by the Collector or other officer appointed for the purpose by the Governor in Council, and the decision of the Collector or such other officer as aforesaid shall be final, and not open to appeal or question in any Civil Court * * *[2] or elsewhere.

After answer demanding inquiry, security to be taken.

Clause 11th.—Whensoever an answer in writing is given by any holder or his agent demanding an inquiry under section 6 or clause 4 of section 8 [1] * * the Collector or other officer to whom such answer has been given shall take the security required in such cases by section 7 * * *[1], or, in default of the same being furnished, shall take such steps as shall be necessary for levying the full assessment of the land as required by the said section, and shall refer the holder's claim to the officer appointed by Government for the trial of such matters, who shall, with reasonable regard to the public convenience, and to the convenience of all persons interested or to be engaged in conducting such inquiry, fix a time at which it shall be proceeded with.

Claim to be referred to officer.

Time to be fixed.

Claimant allowed benefit of evidence to be found in Government records in custody of such public officer.

Clause 12th.—Any claimant demanding an inquiry into his title shall be allowed the benefit or any evidence to be found in the records of the present or any former Government, in custody of such public officer as is authorized by the British Government to have charge or custody of the same, and such public officer shall be bound to search for and to produce the same on application made to him.

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[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words "or Court of Law or Equity" were repealed by the Repealing Act, 1876 (12 of 1876).

12. [*Validation of prior notices, orders and settlements.*] *Rep. Act XVI of 1895.*

13. When any adjustment of a claim or claims to total or partial exemption from land-revenue has been made by the Governor in Council, or any duly authorized officer of Government, under the second, fifth or eighth sections[1] * * * * * * * * * *, any appeal from or against the proceedings, orders or acts of the officers of Government engaged in making any such adjustment shall be made to the Governor in Council, or to such officer or officers as may be appointed by the Governor in Council to take cognizance of such appeals, and shall not be recognizable by any other authority. Appeal from proceedings of officers making adjustment to be made to Governor in Council.

14. [*Bar of suits against Government officers.*] *Rep. Act X of 1876.*

15. All quit-rents, nazránas, succession duties, transfer duties and forfeitures, payable under this Act, shall be levied in the manner in which ordinary land-revenue is now recoverable, and the claim of Government to such quit-rents and nazránas, and to all forfeitures provided by this Act, shall have precedence over any other debt, demand or claim whatsoever, whether in respect of mortgage, judgment, decree, execution or attachment or otherwise howsoever, against the lands, or the holder or holders thereof. Quit-rents, nazránas, etc., how levied.

16. (*A*) [*Number and gender.*] *Rep. Bom. Act III of 1886.*

(*B*) the word "lands" shall, for the purposes of this Act, be understood to include villages, portions of villages, shares of the revenues thereof, and landed estate of every description: Interpretation-clause.

(*C*) "political tenure" is tenure created from, or dependent upon, political considerations, the existence of which shall be determined by the Government:

(*D*) the phrase "lands held for service" shall include lands specially granted, or held or continued, nominally for the performance of service, whether that service be actually performed or not, and lands granted, held or continued, partly in consideration of past service, and partly for the performance of prospective service, but shall not include lands granted in consideration of past service only; and it is to be understood that Government shall be competent to determine any question that may arise in giving effect to this Act, as to whether or not any lands are lands held for service:

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[1] The words "of this Act" which immediately followed the word "sections" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

And the succeeding words namely, "it shall not be competent for any Civil Court or Court of Law or Equity to question such adjustment; so far as the right of Government to levy from the holder or holders of the lands for the time being, the nazrána and the annual quit-rents mentioned in the said second, fifth, and eighth sections, or any of them, is concerned" were repealed by the Bombay Revenue Jurisdiction Act, 1876 (10 of 1876), Vol. I of this Code, p. 115.

(*E*) formal adjudication shall be held to mean final adjudication under any Regulation of the Bombay Government, or under [1]Act XI of 1852, in cases to which the same were applicable, and in other cases final adjudication after inquiry by the British Government or some authorized officer thereof:

(*F*) for the purposes of this Act, the word "holder" shall be taken to signify the person who, by himself, his tenants, sub-tenants or agents, is in possession of the land held wholly or partially exempt from land-revenue assessment, and shall include a mortgagee in possession as aforesaid:

(*G*) the word "transfer" shall, for the purposes of this Act, be taken to mean the permanent alienation of land by assignment, gift, sale, deed or other instrument, or otherwise howsoever, and also mortgage of the same under which possession shall have passed or is to pass to the mortgagee.

BOMBAY ACT No. III OF 1863[2].

[*15th April, 1863.*]

An Act for bringing under the Regulations and Acts of the Presidency of Bombay the territories of Satára, certain villages and lapsed States in the Collectorate of Sholápur and in the Southern Marátha Country, [3] * * * * * * and for excluding the village of Muchandi, pargana Játh, from the operation of the Regulations and Acts of the Presidency of Bombay.

Preamble. WHEREAS it is expedient for the better administration of justice in the territory of Satára that the Collectorate should be brought under the Regulations and Acts of the Presidency of Bombay;

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[1] Vol. I of this Code, p. 53.

[2] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1862, Supplement, p. 543; for Report of the Select Committee, *see ibid*, p. 608; and for Proceedings in Council, *see ibid*, pp. 713 and 799.

So much of Bom. Act 3 of 1863 as related to the following villages, namely:—
the Sánglíkar's village of Dorli in Karyát, Sávarda;
the Sánglíkar's village of Borgaon in Karyát Digráj;
the Mirajkar's village of Dupat Borgaon in Karyát Dudgaon;
the village of Sangam Máhuli, Taraf Vandan, belonging to the Pant Pratinidhi;
the village of Kinhi, Sammat Koreygaon, belonging to the Pant Pratinidhi,
was repealed by Act 4 of 1868.

[3] The words "certain lands ceded to the Government of Bombay for Railway purposes, and the District of North Canara, with the exception of the talooka Cundapoor" were repealed by the Repealing and Amending Act, 1895 (16 of 1895).

(*Secs. 1-4.*)

and whereas certain villages which now belong to Government in Sholápur and the Southern Marátha Country have not yet been made subject to the operation of the general Regulations and Acts affecting the Bombay Presidency;

[1] * * * * * *

and whereas the village of Muchandi, pargana Játh, in the territory of Satára, was inadvertently included in [2] Act VI of 1842, by which certain villages in the Southern Marátha Country were brought under the operation of the Regulations and Acts of the Presidency of Bombay;

It is hereby enacted as follows :—

Villages in Satára rendered subject to Bombay laws.

1. The villages in the Collectorate of Satára as described in Schedule A [3] * * * shall, from and after the first day of January, 1863, be subject to the Regulations and Acts which are or shall at any time hereafter be in force within the territories subject to the Presidency of Bombay.

Villages in Sholápur and in Southern Marátha Country rendered subject to Bombay laws.

2. The villages in the Collectorate of Sholápur and in the Southern Marátha Country described in Schedule B [3] * * * shall, from and after the passing of this Act, be subject to the Regulations and Acts which are or shall at any time hereafter be in force within the territories subject to the Presidency of Bombay.

3. [*Bar of jurisdiction of Civil Courts in certain cases.*] *Rep. Act X of 1876.*

Privileges and exemptions of certain persons of rank.

4. *Clause 1st.*—It is also further enacted that the privileges and exemptions provided in sections 3, 4 and 5, [4] Regulation XXIX, A.D. 1827 and section 5 of [4] Regulation VII, A.D. 1830, and [4] Regulations I and XVI, A.D. 1831, as amended by section 6, [5] Act XIII of 1842 are equally applicable in the districts now brought under the Regulations and Acts to the persons of

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[1] The following portion of the preamble was repealed by the Repealing and Amending Act, 1895 (16 of 1895) :—

"And whereas lands in certain villages have been ceded by His Highness the Guicowar and His Excellency the Nawab of Sucheen to the Government of Bombay for Railway purposes, and it is expedient that such lands should be made subject to the Regulations and Acts of the said Presidency; and whereas the District of North Canara which formed a part of the Presidency of Fort Saint George has, with the exception of the Talooka of Cundapur, been detached from that Presidency and annexed to the Presidency of Bombay, from the sixteenth day of April, 1862, and now forms part of the latter, and it is expedient that the District so transferred should be brought under the Regulations and Acts of the Presidency of Bombay."

[2] Act 6 of 1842 relating to the Nepani Jagir, was repealed by the Laws Local Extent Act, 1874 (15 of 1874), General Acts, Vol. II, p. 483.

[3] The words "to this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol IV of this Code.

[4] Vol. I of this Code, pp. 22, 30, 42 and 43, respectively.

[5] Act 13 of 1842 is not republished, having been repealed locally by the Bombay Land-revenue Code, 1879 (Bom. Act 5 of 1879), *infra*, p. 631.

Muchandi.

(*Sec.* 8.)

(*Schedule A.*)

rank thereiu referred to, as they are in the Dekkhan, Khándesh and Southern Marátha Country.

Clause 2nd.—[*Process against Shrímant Sagunábái Âi Sáheb Mahárâj.*] *Rep. Act XVI of 1895.*

5, 6, 7. [*Railway lands; North Kanára; saving of prior proceedings.*] *Rep. Act XV of 1874.*

Village of Muchandi excluded from operation of Regulations and Acts.

8. The village of Muchandi, pargana Játh, in the territory of Satára, included in [1]Act VI of 1842, by which certain villages in the Southern Marátha Country were brought under the Regulations and Acts of the Presidency of Bombay, shall, from and after the passing of this Act, be excluded from the operation of the Regulations and Acts of the Presidency of Bombay, anything in the said Act VI of 1842 to the contrary in anywise notwithstanding.

SCHEDULE A.

LIST OF THE PARGANAS, TARAFS AND OTHER KNOWN DIVISIONS OF THE COLLECTORATE OF SATÁRA TO BE BROUGHT UNDER THE REGULATIONS AND ACTS.

Consecutive numbers.	Names of the division.
1	Taraf Satára.
2	Taraf Parli.
3	*Taraf Vandan.*[2]
4	Taraf Tárgaon, with the exception of the village Vátár entered in the accounts as belonging to the Chief of Jamkhandi.
5	Taraf Umraj, with exception of the following two villages:— (1) Korti, entered in the accounts as belonging to the Pant Pratinidhi. (2) Sirvada, entered in the accounts as belonging to the Chief of Jamkhandi.

[1] Act 6 of 1842, relating to the Napani Jagir, was repealed by the Laws Local Extent Act, 1874 (15 of 1874), General Acts, Vol. II, p. 483.

[2] As to the village of Sangam Máhuli, Taraf Vandan, *see* second footnote on p. 398 *supra.*

(*Schedule A.*)

Consecutive numbers.	Names of the division.	
6	Sammat Nimb.	
7	Taraf Medha.	
8	Taraf Kedamb.	
9	Taraf Bárámura.	
10	Taraf Kudál.	
11	Taraf Ategaon.	
12	Taraf Bámnoli.	
13	Taraf Solsa.	
14	Taraf Támb.	
15	Karyát Náneghola.	
16	Taraf Tárla.	
17	Karyát Talbid.	
18	Taraf Haveli Karád, with the exception of the following twelve villages :—	
	(1) Saidápur.	Entered in the accounts as belonging to the Pant Pratinidhi.
	(2) Kápil.	
	(3) Pádli.	
	(4) Belavda Varghát.	
	(5) Dushera.	
	(6) Gondi.	
	(7) Ghonshi.	
	(8) Kodoli.	
	(9) Virvada.	
	(10) Bichúd.	
	(11) Manu.	
	(12) Retra Khurd.	Ditto to Sánglíkar Patvardhan.
19	Taraf Marli.	
20	Taraf Pátan.	
21	Taraf Helvák.	
22	Karyát Káshígaon.	
23	Taraf Kola.	
24	Fort[1] Sadáshivgad, Vasantgad and Manchindragad.	

[1] *Sic.*

(*Schedule A.*)

Consecutive numbers.	Names of the division.
25	Karyát Ashta.
26	Taraf Khatáv.
27	Taraf Malavdi.
28	Taraf Dahigaon.
29	Taraf Mhasvad.
30	Taraf Lalgaon.
31	Forts of Machimángad, Várugad and Vardhangad.
32	Taraf Dharmpuri.
33	Karyát Khánápur.
34	Karyát Máyni.
35	Karyát Vángi.
36	Karyát Vita.
37	Karyát Bhálavni.
38	Karyát Nimsod.
39	Fort of Bhushangad.
40	Pargana Kásegaon, Táluka Pandharpur.
41	Pargana Brahmpuri, Táluka Pandharpur.
42	Pargana Sángola.
43	Pargana Gherdi.
44	Pargana Názra.
45	Pargana Aklúj.
46	Pargana Velápur.
47	Pargana Bhálavni, with the exception of the following five villages, entered in the accounts as belonging to the Chief of Akalkot :— (1) Piliv. (2) Shenda Chinch. (3) Shingorni. (4) Dhánora. (5) Kusmáda.
48	Taraf Haveli Wái.
49	Taraf Jor Khora.
50	*Sammat Koreygaon.*[1]

[1] As to the village of Kinhi, Sammat Koreygaon, *see* second foot-note on p. 398, *supra*

(*Schedule A.*)

Consecutive numbers.	Names of the division.
51	Sammat Vágholi.
52	Pargana Molvád.
	The parts of the following parganas, situated in the Collectorate of Satára :—
53	Pargana Bejápur.
54	Pargana Gota.
55	Pargana Baloti.
56	Pargana Sidhnáth.
57	Pargana Mamdápur.
58	Pargana Chimalgi.
59	Pargana Kolhár.
60	Pargana Honvad.
61	Pargana Bárdoli.
62	Pargana Shirála, with the exception of the village of Vátegaon, entered in the accounts as belonging to the Chief of Kurundvád.
63	Pargana Átpádi, with the exception of the village Vitlápur, entered in the accounts as belonging to the Pant Pratinidhi.
64	Pargana Mangalvedha.
65	Pargana Shirval, with the exception of the following villages, entered in the accounts as belonging to the Pant Sachiv :—
	(1) Shirval.
	(2) Bávda.
	(3) Kesurdi.
	(4) Párgaon.
	(5) Tondla.
	(6) Sángvi.
	(7) Bháda.
	(8) Rui.
	(9) Yelka.
	(10) Kavtha.
	(11) Bhádavda.
	The parts of the following tarafs, situated in the Collectorate of Satára :—
66	Taraf Sávarda.
67	Taraf Chiplám.

(*Schedule A.*)

Consecutive numbers.	Names of the division
68	Taraf Válva, situated within the Satára territory, with the exception of the village Kundal, entered in the accounts as belonging to the Pant Pratinidhi.
69	Taraf Várún.
70	Taraf Phaltan, excepting the villages of Dálvadi and Vákri, entered in the accounts as belonging to the Chief of Phaltan.
71	Taraf Vèlvand Khora.
72	Taraf Rohidkhora, with the exception of the village Hátnoshi, entered in the accounts as belonging to the Pant Sachiv.
73	Taraf Nírthadi, with the exception of the village Mirja, entered in the accounts as belonging to the Pant Sachiv.
	The parts of the following Karyáts, situated within the Collectorate of Satára :—
74	Karyát Báji.
75	Do. Vadgaon.
76	Do. Haveli Kolhápur.
77	Do. Kodoli.
78	Karyát Sátva.
79	Karyát Bhilavdi, with the exception of the following four villages :— (1) Nágrála, (2) Bábvada, (3) Ghogaon, and (4) Tupári, entered in the accounts as belonging to the Chief of Sángli.
80	Karyát Sángli.
81	Karyát Dudhgaon, with the exception of Bhad Kinba, entered in the accounts as belonging to Sánglíkar Patvardhan.

(*Schedule B.*)

Consecutive numbers.	Names of the division.
82	Karyát Aundh, with the exception of the following eight villages:—
	(1) Rámápur. }
	(2) Vyáháp ur. }
	(3) Saukira. }
	(4) Párgaon. } Entered in the accounts as belonging to the Pant Pratinidhi.
	(5) Sirasgaon. }
	(6) Chikhalvohol. }
	(7) Aundh. }
	(8) Karla. Ditto as belonging to the Chief of Akalkot.
83	Karyát Tásgaon.
84	Karyát Visapur, with the exception of the following four villages entered in the accounts as belonging to the Chief of Sángli:—
	(1) Alta.
	(2) Sirgaon.
	(3) Nimb.
	(4) Audhali.
85	Karyát Anjni.
86	Karyát Ráybag.
87	That part of Pránt Panhála situated within the Collectorate of Satára.

SCHEDULE B.

LIST OF VILLAGES IN THE COLLECTORATE OF SHOLÁPUR TO BE BROUGHT UNDER THE REGULATIONS AND ACTS.

1. All the villages of pargana Karkamb, táluqá Mádha, situated in the Collectorate of Sholápur, and not brought under the Regulations by [1]Regulation XXIX of 1827, namely:—

(1) Maujé Pehnúr;

(2) „ Bhend;

[1] Vol. I of this Code, p. 22.

(*Schedule B.*)

(3) Maujé Bhatumbra;
(4) „ Yevti;
(5) „ Akumba;
(6) „ Bembla;
(7) „ Támbva; and
(8) Kasba Karkamb.

2. All the villages of the Naldurg pargana, táluqá Sholápur, situated in the Collectorate of Sholápur, remaining to be brought under the Regulations and not entered in [1] Act VI of 1842, namely:—

Maujé Tadvála.

3. All the villages of the Chánd Kavtha pargana, táluqá Hippargi, situated in the Collectorate of Sholápur, not brought under the Regulations by [1] Act VI of 1842, namely:—

Maujé Ankalgi.

4. The whole of pargana Chimalgi, táluqá Mangoli, not brought under the Regulations by [2] Regulation XXIX of 1827, namely:—

(1) Kasba Chimalgi;
(2) Maujé Almati;
(3) „ Vandal;
(4) „ Biraldini;
(5) „ Budni;
(6) „ Hunshál;
(7) „ Nágvád;
(8) „ Akalvádi;
(9) „ Arsangi;
(10) „ Benál;
(11) „ Angadgiri;
(12) „ Hangargi;
(13) „ Uni Bhávi; and
(14) „ Gudhini.

All the villages of the Nidgundi pargana not brought under the Regulations by [2] Regulation VII of 1830 and [1] Act VI of 1842:—

(1) Areshankar.
(2) Vadvadgi.

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[1] Act 6 of 1842, relating to the Nepani Jagir, was repealed by the Laws Local Extent Act, 1874 (15 of 1874), General Acts, Vol. II, p. 483.

[2] Vol. I of this Code, pp. 22 and 30, respectively.

(*Schedule B.*)

LIST OF VILLAGES IN THE SOUTHERN MARÁTHA COUNTRY TO BE BROUGHT UNDER THE REGULATIONS AND ACTS.

1. The following villages in taraf Mugal Khod :—

Maujé Gundevádi.
„ Dharúr.
„ Siddápur.
„ Kolijúd.
„ Yebarhatti.
„ Hárogeri.
„ Hídkal.
„ Mugal Khod.
„ Pálbhávi.
„ Kappalgudi.
„ Hallúr.
„ Sivápur.
„ Khán Náikinhatti.
„ Mudalgi.
„ Munál.

2. The following villages in Pránt Miraj :—

(1) Maujé Soni } Karyát Mané.
(2) „ Bhos } Rájuri.
(3) „ Bisúr } Karyát Sángli.
(4) „ Kúpváda }
(5) „ Haroli, Karyát Dessing.
(6) „ Yerandoli } Karyát Bedag.
(7) „ Belavki }
(8) „ Árvandé, Karyát Sávardé.
(9) „ Vadgaon, Karyát Anjni.
(10) „ Kalombi, Karyát Haveli.
(11) „ Shedshál, Karyát Shirhatti.
(12) „ Pándegaon, Karyát Kavtha Mahánkál.
(13) „ Kasba Tásgaon } Karyát Tásgaon.
(14) „ Maujé Turchi }
(15) „ Pádli }
(16) „ Bhilavdi }
(17) „ Vasgada, Karyát Kavtha.
(18) „ Nimni.

3. The following villages in Pránt Kágal :—

(1) Maujé Ankli, Karyát Mánjri.
(2) „ Burli, Karyát Digráj.

Muchandi.

(*Schedule B.*)

4. The following villages in Pránt Ráybág :—

(1) Kasba Ainápur, Karyát Ainápur.

(2) Maujé Hatnoli, Karyát Nándura.

5. The following village in Pránt Hukeri :—

(1) Maujé Mangávatti, Karyát Jugal.

6. The following villages in Pránt Bijápur : —

(1) Maujé Shirhatti
(2) „ Nágnúr
(3) „ Ratnápur
(4) „ Shivdi
(5) „ Haliyál

} Karyát Kokatnúr.

The following village in pargana Kokatnúr :—

(1) Maujé Mhaisvádgi.

7. Pargana Yádvád with the exception of the three following villages :—

(1) Aurvád,

(2) Kalligudi,

(3) Chippalkatti,

entered in the accounts as belonging to the Chief of Jamkhandi.

8. Karyát Kinní.

9. The following village in taraf Kánnúr :—

(1) Maujé Chikk Tarsi, Karyát Kánnúr.

10. The following village in pargana Sháhápur :—

(1) Ashta.

11. The following villages in Karyát Sávarda :—

(1) Kasba Sávarda.

(2) Maujé Londa.

(3) „ *Dorli.*[1]

12. The following villages in taraf Phutgaon :—

(1) Kasba Sávlaj.

(2) Maujé Dongarsáni.

(3) „ Karavli.

13. The following village in taraf Tásgaon :—

(1) Maujé Punada.

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[1] As to the village of Dorli, *see* second foot-note on p. 398, *supra.*

(*Schedule B.*)

14. *The following village in Karyát Dudhgaon :—*
    (1) *Maujé Borgaon.*[1]
15. *The following village in Karyát Digráj :—*
    (1) *Maujé Borgaon*[1].
16. The following village in Pránt Karád :—
    (1) Maujé Yelávi.
17. The following village in Karyát Uchgaon :—
    (1) Maujé Belgundi.
18. The following village in Karyát Kágti :—
    (1) Maujé Kangráli Khurd.
19. The following village in taraf Sámbra :—
    (1) Maujé Nilji.
20. The following village in pargana Azamnagar :—
    (1) Khásbág.
21. The following isolated villages :—
    (1) Kasba Shedbál.
    (2) „ Jugal.
    (3) Maujé Kágvád.
    (4) „ Ugar Budruk.
    (5) „ Murgundi.
    (6) „ Távsi.
    (7) „ Nándgaon.
22. The following villages in pargana Lakshmeshvar :—
    (1) Maujé Kalas.
    (2) „ Surngi.
    (3) „ Konhigeri.
    (4) „ Vadvi.
    (5) „ Bijúr.
    (6) „ Kankápur.
    (7) „ Koudikop.
    (8) „ Konerikop.
23. The following villages in pargana Mulgund :—
    (1) Maujé Mulgund.
    (2) „ Sherul.

[1] As to the village of Dupat Borgaon in Karyát Dudhgaon and the village of Borgaon in Karyát Digráj, *see* second foot-note on p. 398, *supra*.

(*Schedule B.*)

(3) Maujé Kabuláyat Katti.
(4) „ Harthi.
(5) „ Chinchli.
(6) „ Kallúr.
(7) „ Chaklabbi.
(8) „ Hirenarti.
(9) „ Yergupi.
(10) „ Náráyanpur.
(11) „ Nágarhalli.
(12) „ Mantúr.
(13) „ Keresúr.
(14) „ Hebsúr.
(15) „ Karlvád.
(16) „ Kuratti.
(17) „ Chikk Narti.

24. The following village in Karyát Ingalhalli:—
Maujé Ingalhalli.

25. The following villages in pargana Nargund:—
(1) Maujé Nargund.
(2) „ Bairanhatti.
(3) „ Dandápur.
(4) „ Karvinkop.
(5) „ Jagápur.
(6) „ Maujepeth.
(7) „ Arbaun.
(8) „ Somápur.
(9) „ Burlkatti.
(10) „ Siddápur.
(11) „ Chikk Nargund.
(12) „ Kankikop.
(13) „ Hálgop.

26. The following villages in pargana Navalgund:—
(1) Maujé Kuregovankop.
(2) „ Hunrikatti.

27. The following villages in Karyát Shirol:—
(1) Maujé Shirol.
(2) „ Vadvatti.
(3) „ Ingalgundi.

(*Schedule C.*)

(4) Maujé Kalas.
(5) „ Lingadhál.
(6) „ Budihál.

28. The following villages in taraf Konnúr :—

(1) Maujé Konnúr.
(2) „ Árlikatti.
(3) „ Lakmápur.
(4) „ Gunakop.
(5) „ Chikk Molangi.
(6) „ Hira Tadsi.
(7) „ Vásina.
(8) „ Idgal.
(9) „ Mádhádi.
(10) „ Bennúr.
(11) „ Ajgundi.
(12) „ Bennúr.
(13) „ Talakvád.
(14) „ Hotiholli.
(15) „ Lingadhál.

29. The following villages in pargana Bádámi :—

(1) Maujé Megúr.
(2) „ Kárámudi.

30. The following village in Máhál Hoskerri :—

(1) Kharlkop.

31. The isolated villages of Behatti and Sangdál.

SCHEDULE C.

[*Lands ceded for Railway purposes.*]

Repealed by Act XV of 1874.

BOMBAY ACT No. V OF 1863.

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2. Not to enter on private land without consent.
3. Notice to be served on persons having control, &c., before breaking up streets or opening drains.
4. Streets or drains not to be broken up except under superintendence of persons having control of same.
   If persons having control, &c., fail to superintend, Company may proceed.
5. Streets broken up to be reinstated without delay.
6. Penalty for opening, or breaking up street without notice, &c. ;
   delay in reinstating streets, &c. ;
   Neglect to fence and light, &c.
7. In case of delay, persons concerned may reinstate and recover expenses.
   Expenses how ascertained and recovered.
8. Power to enter buildings for ascertaining quantity of gas consumed.
   Penalty for hindering.
9. Recovery of rents due for gas.
10. Power to remove pipes when supply of gas discontinued.
11. Meters, &c., not liable to distraint for rent.
12. Penalty for fraudulently using gas.
13. Penalty for wilfully damaging pipe.
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15. Penalty for causing water to be corrupted.
    Daily penalty during continuance of offence.
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17. Penalty if water be fouled by gas.
18. Power to examine gas-pipes to ascertain cause of water being fouled.
19. Expenses by whom to be borne.
20. Expenses how ascertained.
21. Liability to indictment for nuisance.
22. Copies of memorandum and articles of association and of regulations, &c., to be kept for inspection—
    at office of Company in Bombay ;
    in Secretariat, and Office of Registrar of Joint Stock Companies.
    Copy to be evidence.
23. Service of process on Company.
24. Recovery of penalties, &c.
25. Levy by distress.
26. No distress unlawful for want of form, &c.
27. Power to extend Act to other places and Companies.
28. Interpretation.

BOMBAY ACT No. V OF 1863.[1]

[*12th May, 1863.*]

An Act to confer certain powers on the Bombay Gas Company, Limited; and to enable Government to confer similar powers on other Companies registered and incorporated for the purpose of manufacturing and supplying gas.

Preamble.

WHEREAS a Joint Stock Company has been lately formed for the purpose of introducing gas-works into the Presidency of Bombay, which Company has been completely registered in England under the "Joint Stock Companies' Acts, 1856 and 1857," with limited liability, and has duly obtained a certificate of incorporation under the name of "The Bombay Gas Company, Limited:"

19 & 20 Vict., c. 47.
20 & 21 Vict., c. 14.

and whereas the said Company is about to erect gas-works in the suburbs of Bombay, and is engaged in the preparation of apparatus and materials for the manufacture and supply of gas, and also in the business of gas-fitters in the Presidency of Bombay:

and whereas it is expedient that powers and facilities should be given to the said Company to enable them to carry out their undertaking of lighting with gas the town and suburbs of Bombay; which powers and facilities may hereafter be extended to the operations of the said Company in other towns and places within or subject to the Presidency of Bombay, and to other Companies which are or may hereafter be registered and incorporated for the purpose of manufacturing and supplying gas;

It is enacted as follows:—

Power to break up streets, etc., under superintendence, and to open drains.

1. In the town and suburbs of Bombay and in any other town or place to which the provisions of this Act may hereafter be extended, by an order or orders or permission of the Governor in Council, the Bombay Gas Company, Limited, under such superintendence as is hereinafter specified, may open and break up the soil and pavement of the several streets and bridges, and may open and break up any sewers, drains or tunnels within or under such streets and bridges, and lay down and place within the same limits, pipes, conduits, service-pipes and other works, and from time to time repair, alter or remove the same, and also make any sewers that may be necessary for carrying off the washings and waste-liquids which may arise in the making of the gas; and, for the purposes aforesaid, may remove and use all earth and materials in and under such streets and bridges;

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1863, Supplement, p. 199; for Report of the Select Committee, *see ibid*, p. 255, and for Proceedings in Council, *ibid*, pp. 193 and 291.

and the Company may in and on such streets and bridges erect any pillars, lamps and other works, and do all other acts which the said Company shall from time to time deem necessary for supplying gas to the inhabitants of the said town and suburbs of Bombay, or other town or place as aforesaid, doing as little damage as may be in the execution of the powers hereby granted, and making compensation for any damage which may be done in the execution of such powers.

Not to enter on private land without consent.

2. Provided always that nothing herein shall authorize or empower the said Company to lay down or place any pipe or other works into, through or against any building or in any land not dedicated to public use, without the consent of the owners and occupiers thereof, except that the said Company may at any time enter upon and lay or place any new pipe in the place of any existing pipe in any land wherein any pipe hath been already lawfully laid down or placed in pursuance of this Act, and may repair or alter any pipe so laid down.

Notice to be served on persons having control, etc., before breaking up streets or opening drains.

3. Before the said Company proceed to open or break up any street, bridge, sewer, drain or tunnel, they shall give to the municipal commissioners for the town of Bombay, or other persons under whose control or management the same may be, or to their clerk, surveyor or other officer, notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work; except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the works, or the necessity for the same shall have arisen.

Streets or drains not to be broken up except under superintendence of persons having control of same.

4. No such street, bridge, sewer, drain or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up, except under the superintendence of the persons having the control or management thereof, or of their officers, and according to such plan as shall be approved of by such persons, or their officers, or in case of any difference respecting such plan, then according to such plan as shall be determined by a Magistrate; and a Magistrate may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the said Company to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain:

If persons having control, etc., fail to superintend, Company may proceed.

Provided always that, if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain or tunnel, after having had such notice of the said Company's intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the

operation, the said Company may perform the work specified in such notice without the superintendence of such persons or their officer.

Streets broken up to be reinstated without delay.

5. When the said Company open or break up the road or pavement of any street or bridge, or any sewer, drain or tunnel, they shall with all convenient speed complete the work for which the same shall be broken up, and fill in the ground, and reinstate and make good the road or pavement, or the sewer, drain or tunnel, so opened or broken up, and carry away the rubbish occasioned thereby; and shall at all times, whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light, sufficient for the warning of passengers, to be set up and maintained against or near such road or pavement where the same shall be open or broken up, every night during which the same shall be continued open or broken up; and shall keep the road or pavement which has been so broken up in good repair for three months after replacing and making good the same.

Penalty for opening or breaking up street without notice, &c.,

6. If the said Company open or break up any street or bridge, or any sewer, drain or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid, when so required, except in the cases in which the said Company are hereby authorized to perform such works without any superintendence or notice; or

delay in reinstating streets, &c.

if the said Company make any delay in completing any such work, or in filling in the ground, or reinstating and making good the road or pavement, or the sewer, drain or tunnel, so opened or broken up, or in carrying away the rubbish occasioned thereby; or

neglect to fence and light, &c.

if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded and lighted, or neglect to keep the road or pavement in repair for the space of three months next after the same shall have been made good,

they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain or tunnel in respect of which such default is made, a sum not exceeding fifty rupees for every such offence, and they shall forfeit an additional sum not exceeding fifty rupees for each day during which any such delay as aforesaid shall continue after they shall have received notice thereof.

In case of delay, persons concerned may reinstate and recover expenses.

7. If any such delay or omission as aforesaid take place, the persons having the control or management of the street, bridge, sewer, drain or tunnel in respect of which such delay or omission shall take place may cause the work so delayed or omitted to be executed, and the expense of executing

Expense how ascertained and recovered.

the same shall be repaid to such persons by the said Company; and the amount of such expense shall in case of any dispute about the same be ascertained and recovered in Bombay and in any other town or place subject to the jurisdiction of any of Her Majesty's High Courts of Judicature, in the manner in which expenses are ascertained and recovered [1] [in municipalities under the law for the time being in force] and, in any town or place not within the jurisdiction of any of Her Majesty's High Courts of Judicature, in the same manner as damages are recoverable under this Act.

Power to enter buildings for ascertaining quantity of gas consumed.

8. The clerk, engineer or other officer duly appointed for the purpose by the said Company may at all reasonable times enter any buildings, or place, lighted with gas supplied by the said Company, in order to inspect the meters, fittings and works for regulating the supply of gas, and for the purpose of ascertaining the quantity of gas consumed or supplied;

Penalty for hindering.

and if any person hinder such officer as aforesaid from entering and making such inspection as aforesaid, at any reasonable time, he shall, for every such offence, forfeit to the said Company a sum not exceeding fifty rupees.

Recovery of rents due for gas.

9. If any person supplied with gas, or any person to whom any meter or fitting shall have been let for hire by the said Company, neglect to pay the rent due for the same to the said Company, the said Company may stop the gas from entering the premises of such person by cutting off the service-pipes, or by such means as the said Company shall think fit, and the said Company may recover the rent due from such person, together with the expense of cutting off the gas, by proceeding before a Magistrate, or by action or plaint in any Court of competent jurisdiction.

Power to remove pipes when supply of gas discontinued.

10. In all cases in which the said Company are authorized to cut off and take away the supply of gas from any house or building or premises under the provisions of this Act, the said Company, their agents or workmen, after giving twenty-four hours' previous notice to the occupier, may enter into any such house, building or premises, between the hours of nine in the forenoon and four in the afternoon, and recover and carry away any pipe, meter, fittings or other works the property of the said Company.

Meters, etc., not liable to distraint for rent.

11. Any pipe, meter, fitting or other work let for hire by the said Company shall not be subject to distress for rent or revenue, or any rate or tax due upon the premises where the same may be used, nor be taken in execution under any process of any Court whatsoever, or in or under any proceeding in bankruptcy or insolvency, against the person in whose possession or power the same may be.

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[1] These words were substituted for the words and figures "under Act 14 of 1856" by the Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

Penalty for fraudulently using gas.

12. Every person who shall lay, or cause to be laid, any pipe to communicate with, or who shall derive gas directly or indirectly from, any pipe belonging to the said Company, without their consent, or

who shall fraudulently injure or tamper with any such pipe, meter, fitting or other work as aforesaid, or

who, in case the gas supplied by the said Company is not ascertained by meter, shall use any burner other than such as has been provided or approved of by the said Company, or of larger dimensions than he has contracted to pay for, or shall keep the lights burning for a longer time than he has contracted to pay for, or shall otherwise improperly use or burn the gas, or shall supply any other person with any part of the gas supplied to him by the said Company,

shall, in addition to the amount firstly due to the Company for gas supplied, forfeit to the said Company the sum of fifty rupees for every such offence and also the sum of twenty rupees for every day every such offence shall have been continued or repeated, and the said Company may take off the gas from the house and premises of the person so offending, notwithstanding any contract which may have been previously entered into, and shall not be liable to any action or suit for so doing.

Penalty for wilfully damaging pipe.

13. Every person who shall wilfully remove, destroy or damage any pipe, pillar, post, plug, lamp or other work of the said Company for supplying gas, or who shall wilfully extinguish any of the public lamps or lights, or waste or improperly use any of the gas supplied by the said Company, shall for each such offence forfeit to the said Company any sum not exceeding fifty rupees in addition to the amount of the damage done.

Satisfaction for accidentally damaging pipe.

14. Every person who shall carelessly or accidentally break, throw down or damage any pipe, pillar or lamp belonging to the said Company or under their control shall pay to the Company such sum of money by way of satisfaction, not exceeding the amount of the damage done, as any Magistrate shall think reasonable.

Penalty for causing water to be corrupted.

15. If the said Company shall at any time cause or suffer to be brought or to flow into any stream, reservoir, aqueduct, pond or place for water, or into any drain communicating therewith, any washing or other substance produced in making or supplying gas, or shall wilfully do any act connected with the making or supplying of gas, whereby the water in any such stream, reservoir, aqueduct, pond or place for water shall be fouled, the said Company shall forfeit for every such offence a sum not exceeding one thousand rupees.

Daily penalty

And they shall forfeit an additional sum not exceeding five hundred rupees

during continuance of offence.

for each day during which such washing or other substance shall be brought or shall flow, or the act by which such water shall be fouled shall continue after the expiration of twenty-four hours from the time when notice of the offence shall have been served on the said Company by the person into whose water such washing or other substance shall be brought or shall flow, or whose water shall be fouled thereby.

Daily penalty during escape of gas after notice.

16. Whenever any gas shall escape from any pipe laid down or set up by or belonging to the said Company, they shall immediately after receiving notice thereof in writing prevent such gas from escaping, and in case the said Company shall not within twenty-four hours next after service of such notice effectually prevent the gas from escaping, and wholly remove the cause of complaint, they shall, for every such offence, forfeit the sum of fifty rupees for each day during which the gas shall be suffered to escape after the expiration of twenty-four hours from the service of such notice.

Penalty if water be fouled by gas.

17. Whenever any water shall be fouled by the gas of the said Company, they shall forfeit to the person whose water shall be so fouled for every such offence a sum not exceeding five hundred rupees, and a further sum not exceeding one hundred rupees for each day during which the offence shall continue after the expiration of twenty-four hours from the service of notice of such offence.

Power to examine gas pipes to ascertain cause of water being fouled.

18. For the purpose of ascertaining whether such water be fouled by the gas of the said Company, the person to whom the water supposed to be fouled shall belong may dig up the ground and examine the pipes, conduits and works of the said Company : provided that such person before proceeding so to dig and examine shall give twenty-four hours' notice in writing to the said Company of the time at which such digging and examination is intended to take place, and shall give the like notice to the persons having the control or management of the road, pavement or place where such digging is to take place, and they shall be subject to the like obligation of re-instating the said road and pavement, and the same penalties for delay, or any nonfeasance or misfeasance therein, as are hereinbefore provided with respect to roads and pavements broken up by the said Company for the purpose of laying their pipes, and provided further that the officers or other persons acting on behalf of the Company may be present at such digging and examination as aforesaid.

Expenses by whom to be borne.

19. If, upon any such examination, it appear that such water has been fouled by any gas belonging to the said Company, the expenses of the digging, examination and repair of the street or place disturbed in any such examination shall be paid by the said Company, but, if upon such examination,

it appear that the water has not been fouled by the gas of the said Company, the person causing such examination to be made shall pay all such expenses, and shall also make good to the said Company any injury which may be occasioned to their works by such examination.

Expenses how ascertained

20. The amount of the expenses of every such examination and repair and of any injury done to the said Company shall, in case of any dispute about the same, together with the costs of ascertaining and recovering the same, be ascertained and recovered in the manner prescribed for the ascertainment and recovery of expenses in section 7 * * * * [1].

Liability to indictment for nuisance.

21. Nothing in this Act contained shall prevent the said Company from being liable to an indictment for nuisance, or to any other legal proceedings to which they may be liable, in consequence of making or supplying gas.

Copies of memorandum and articles of association and of regulations, &c., to be kept for inspection—

19 & 20 Vict., c. 47.
20 & 21 Vict., c. 14.

22. Copies of the memorandum and articles of association of the said Company and of every other instrument registered under the said "Joint Stock Companies Acts, 1856 and 1857", as constituting the regulations of the said Company, and a copy of every special resolution of a general meeting whereby any change shall have been, or at any time shall be, made in the regulations of the said Company, shall be kept at the office of the said Company in Bombay, and shall there be open to the inspection of all persons during the usual hours of business of the said office;

at office of Company in Bombay

and copies of such memorandum and articles of association and of every other such instrument, and of every special resolution as aforesaid, shall also be deposited by the said Company as soon as it can be done after the passing of this Act, or after the making of any such special resolution hereafter to be made, in the Bombay Secretariat and also in the office of the Registrar of Joint Stock Companies, or, if there be no such officer, in the office of the person having the custody of the records of the High Court of Judicature at Bombay, and shall there be filed;

in Secretariat, and office of Registrar of Joint Stock Companies.

Copy to be evidence.

and an examined copy of any such filed copy as aforesaid, certified by and under the hand of the Registrar of Joint Stock Companies, or of the person having the custody of the records of the said High Court, shall be good and sufficient evidence of such memorandum or articles of association, instrument or special resolution, in all actions, suits and proceedings whatsoever, whether civil or criminal, to be had in any Court of justice, whether established by Royal Charter or not, or before any Magistrate or revenue or other officer, and whether acting judicially, or in any proceeding preliminary to a

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

judicial inquiry throughout the territories within or subject to the Presidency of Bombay.

Service of process on Company.

23. All services of mesne or other process, and all notices whatsoever, which by law or by the practice of any Court wherein the said Company shall sue or be sued, are required to be made, served or given for any purpose whatsoever to the said Company, shall and may be made, served and given, in addition to all ways and means by which the same may otherwise be legally made, served and given, by leaving the same addressed to the managing agent of the said Company at the office in Bombay of the said Company.

Recovery of penalties, &c.

24. Any penalties and forfeitures imposed by this Act, and any damages and expenses the recovery of which is not hereinbefore specially provided for, may respectively be recovered to the amount of fifty rupees by summary proceeding before a Magistrate.

Levy by distress.

25. All penalties, forfeitures, damages and expenses adjudged due under this Act, if the amount be not otherwise paid, may be levied by distress and sale of the goods and chattels of the party liable to pay the same, and the surplus arising from such goods and chattels, after satisfying such amount and the expenses of the distress and sale, shall be returned on demand to the party whose goods shall have been distrained, or instead of proceeding by distress and sale, or in case of failure to realise by distress the whole or any part of any penalties, forfeitures, damages or expenses imposed or incurred under the provisions of this Act, the person claiming such penalty, forfeiture, damage or expenses may sue the person liable to pay the same in any Court of competent jurisdiction.

No distress unlawful for want of form, &c.

26. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress or other proceeding relating thereto, nor shall any such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Power to extend Act to other places and Companies.

27. It shall be lawful for the Governor in Council, by an order to be published in the Bombay Government Gazette, to extend the provisions of this Act to any other town or place within or subject to the Presidency of Bombay, and also to any other Joint Stock Company which may hereafter be formed for the purpose of manufacturing and supplying gas and which may have been completely registered according to law.

28. The following words and expressions used in this Act shall have meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)— Interpretation.

[1] * * * * * * * *

The word "street" shall include any public passage or place, and any road, square, court, alley, highway, lane, gully or passage, whether a thoroughfare or not, over which the public have a right of way, and also the roadway over any public or railway-bridge or causeway, and over the approaches thereto.

[2] * * * * * * * *

The expression "town and suburbs of Bombay" mentioned in this Act comprise whatever has been hitherto included within the limits generally known as the Islands of Bombay and Kolaba, together with all land or ground now or which may be hereafter reclaimed from the sea or harbour.

BOMBAY ACT No. VI OF 1863.

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[1] The words "Words importing the singular number only shall include the plural numbers and words importing the plural number only shall include also the singular number. Words importing the masculine gender shall include females" and the words, "The word 'person' shall include a corporation whether aggregate or sole" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words "The word 'Magistrate' shall include any Magistrate of Police and any Joint Magistrate or other person lawfully exercising the power of Magistrate acting at or for the place or district where the matter requiring the cognizance of any such Magistrate arises" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

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33. [*Repealed.*]
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38. [*Repealed.*]

BOMBAY ACT No. VI OF 1863. [1]

[*11th June, 1863.*]

An Act for the regulation of public conveyances in the town, suburbs and harbour of Bombay.

Preamble.

WHEREAS it is expedient that arrangements be made for the better regulation and control of public conveyances plying for hire for the conveyance of persons or goods within the town, suburbs and harbour of Bombay, and for the conduct of the licensees, drivers or other attendants of such public conveyances; It is hereby enacted as follows :—

Definition of public conveyance.

1. Every carriage with two or more wheels which shall be used for the purpose of plying for hire within the jurisdiction of the Commissioner of Police of Bombay, of whatever form or construction, or by whatever number of horses or other animals the same shall be drawn, and every pálki which shall be let for hire, shall be deemed and taken to be a public land-conveyance; and every boat or other vessel carrying passengers for hire within the said jurisdiction, whatever be the means by which the same may be propelled, shall

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1863, Supplement, p. 113; for Report of the Select Committee, *see ibid*, p. 260; and for Proceedings in Council, *see ibid*, pp. 145, 207, 293 and 342.

Bom. Act 6 of 1863 has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Ed. 1898, Vol. II, p. 467, to be in force in the Province of Sindh and in Aden—*see* Appendix to Vol. I of this Code, pp. 331 and 363, respectively. The powers exerciseable in Sindh by the Local Government under this Act have been conferred on the Commissioner in Sindh by Notification No. 4747, dated 5th July, 1899, *see* Bombay Government Gazette, 1899, Pt. I, p. 1078.

be deemed and taken to be a public water-conveyance within the meaning of this Act.

No person to use or let for hire conveyance not licensed,

2. No person shall keep or let for hire any public conveyance within the said jurisdiction, without having a license in force for the same, granted, in the case of a land-conveyance by the Commissioner of Police, and in the case of a water-conveyance by the Master Attendant,

or not numbered,

nor, if such conveyance be ordinarily let for hire for periods of less than one whole day, unless there be painted or branded on such parts of the said conveyance as the Commissioner of Police or Master Attendant may, respectively, direct, a number corresponding with that of the license granted for such conveyance, together, in the case of a land-conveyance licensed to carry passengers, with the number of passengers it is licensed to carry, as follows :—

"Licensed to carry ( ) passengers only";

or not having list of fares.

nor unless a board or plate inscribed with such list of rates of fares, and affixed in such manner, as the Commissioner of Police or Master Attendant may, respectively, direct, be attached to such conveyance;

Penalty for contravention.

and any person keeping or letting for hire any public conveyance without such license as aforesaid, or without such number or inscription being legibly painted or branded thereon, or without such list of rates of fare being attached thereto, shall be liable, on conviction before a Magistrate of Police, to a penalty not exceeding rupees one hundred, or to simple imprisonment for a period not exceeding three months.

No attendant of public land-conveyance to ply without license and badge.

3. No attendant of any public land-conveyance shall ply for hire or demand or receive any fare for the conveyance of any passenger unless he shall have received a license from the Commissioner of Police, and a metal badge bearing the number of such license, which badge he shall be bound to wear on a conspicuous part of his dress at all times when he may be so plying for hire or pursuing his occupation as such attendant,

Penalty for contravention.

and if any attendant who shall not have received a license and badge shall demand or receive any money from any passenger,

or if any licensed attendant shall fail to wear the badge aforesaid as in this section directed,

or if he shall permit any other person to wear his badge,

he shall for each such offence be punishable, on conviction before a Police Magistrate, with a fine not exceeding rupees twenty, in default of payment of such fine shall be liable to simple imprisonment for a period not exceeding one month :

Provided that every person other than the licensed attendant who wears the badge is presumed to wear it with the licensed attendant's permission. Proviso.

4. Every license shall contain and specify— Contents of license.

the full name and address of the licensee,

the number and class of conveyance for which the license has been issued,

the number of horses or other animals by which the conveyance shall be drawn, or the number of persons composing the crew,

the number of passengers such conveyance is licensed to carry, and whether it be licensed to ply for hire on fixed stands only or to take up passengers on any and what roads or places, and between any and what points,

the date on which such license was granted, and that on which it will by efflux of time lapse and expire.

5. As often as any licensee shall change his residence, he shall give notice thereof, in writing signed by himself, to the Commissioner of Police, or the Master Attendant, as the case may be, and, in failure to give that notice for one week after his change of residence, he shall be liable to a penalty of rupees twenty. Notice to be given of change of residence.

6. Licenses issued under section 2 * * * *[1] shall usually be granted on the first January in each year, but the Commissioner of Police or Master Attendant may, at any other time, grant licenses, and shall always at the time of granting every license, and at all other times when necessary, cause to be painted or branded upon a conspicuous part of every such public conveyance such number and inscription as are required by section 2: Commissioner of Police and Master Attendant may grant licenses for public conveyances.

Provided that the said Commissioner of Police or Master Attendant may, in his discretion, refuse to grant any such license for any conveyance which he may consider to be insufficiently found or otherwise unfit for the conveyance of the public, or to any applicant whom he may consider, from youth, bad character or for other reason, unfit to be entrusted with the same.

7. For every such license there shall be levied a fee in accordance with the class of license granted, as shown in the following scale:— Fees for licenses.

omnibuses and other vehicles on four wheels to be drawn by two or more horses, and licensed to carry more than six persons including the driver, rupees two:

omnibuses, shigrams and other vehicles on four wheels, licensed to carry not more than six persons including the driver, whether drawn by one or more horses, one rupee:

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[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act I of 1904), Vol. IV of this Code.

buggies, cabs or similar vehicles, on two wheels, licensed to carry three persons only, including the driver, eight annas :

bullock-carts on two or more wheels, drawn by two bullocks and licensed to carry five persons, including the driver, four annas :

bullock-carts on two wheels, drawn by two bullocks and licensed to carry three persons, including the driver, four annas :

pálkí, four annas per year :

bandar-boats and ferry-boats, one rupee :

dingís, eight annas :

tonís or canoes, two annas :

labour-carts to carry goods only, four annas.

The balance of such fees, after all necessary contingent expenses shall have been defrayed, shall, from time to time, be paid into the Bank of Bombay [1] * * * * * * by the Master Attendant to the credit of the port-fund [2] * * * * * :

Proviso. Provided that nothing in section 2 shall be held to prevent cargo-boats licensed under Act VI of 1863 [3] from carrying so many passengers for hire as the chief officer of customs may in the license permit.

Licenses to be renewed annually. **8.** The Commissioner of Police and Master Attendant shall, on or as soon as possible after the first day of January in each year, renew the licenses and numbers of the said public conveyances on payment of the regulated fee by the licensee :

Proviso. Provided that nothing herein contained shall prevent the Commissioner of Police or Master Attendant from altering or changing the number of any such conveyance, or from refusing absolutely to renew the license of any conveyance, which he may consider to be insufficiently found, or otherwise unfit for its intended purpose, or the owner of which he may consider unfit to be entrusted with such renewed license.

Power of Commissioner of Police and Master Attendant to suspend or revoke licenses. **9.** In the event of any such licensed public conveyance being at any time insufficiently found or appointed, or

of any driver or attendant of any such public conveyance appearing unfit to be trusted with the charge of the same, or

of such conveyance being used for passengers when licensed only for labour,

[1] The words " by the Commissioner of Police to the credit of the Municipal Commissioners of Bombay, and" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words "standing in the name of the Commissioner of Customs" were repealed by the Repealing Act, 1876 (12 of 1876).

[3] See now the Sea Customs Act, 1878 (8 of 1878), as modified up to 1st February, 1904.

the Commissioner of Police or Master Attendant may, in his discretion, suspend or revoke the license, and order the number of such conveyance to be erased;

Penalty for plying after suspension of license.

and the owner of any conveyance, the license of which shall have been suspended, or the number of which shall have been ordered to be erased, as aforesaid, who shall again permit the same to ply for hire before he shall have obtained a restoration or renewal of such license from the Commissioner of Police or Master Attendant, and affixed a corresponding number and inscription to such conveyance, shall, on conviction before a Magistrate of Police, be liable to the penalty prescribed by section 2 * * *[1] for keeping or letting for hire an unlicensed public conveyance.

Suspended or revoked licenses to be returned to Commissioner of Police or Master Attendant.

10. All licenses which shall have been suspended or revoked by the Commissioner of Police or Master Attendant under the authority of the preceding section shall be delivered up to the said Commissioner of Police or Master Attendant by the licensee within twenty-four hours after the suspension or revocation thereof, under penalty, on conviction before a Magistrate of Police, of a fine of rupees twenty, failing payment of which the licensee shall be liable to simple imprisonment for a period not exceeding two months.

Issue of duplicate of license lost, mislaid or defaced.

11. Duplicate licenses may be granted by the Commissioner of Police or Master Attendant on proof of the license granted for any public conveyance having been lost or mislaid, or of the particulars written in such license having been accidentally obliterated or defaced;

Power to renew license or restore inscription Fee for renewed license.

and the said Commissioner of Police or Master Attendant may also renew or restore the numbers or inscriptions on public conveyances which shall have become obliterated; a fee equal to one-half the fee leviable under section 7 being previously paid for each license or number renewed or restored under this section, or under section 8 * * *[1].

Licenses not transferable without sanction endorsed thereon.

12. Licenses issued under this Act may be transferred by or on account of the licensee to any other person, with the sanction of the Commissioner of Police or Master Attendant respectively, such sanction being duly endorsed on the reverse of such license;

Responsibility of transferee of license.

and all responsibilities of the original licensee after such sanction endorsed as aforesaid shall attach to the transferee:

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[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

Effect of transfer without sanction.

Provided that any transfer without such sanction endorsed shall forthwith render the license null and void.

Registers to be kept.

13. The Commissioner of Police and Master Attendant shall keep registers containing the full particulars of each public conveyance as entered in the license thereof,

Penalty for misuse of license.

and any person using or authorising the use of a license, number or inscription, other than for the particular conveyance for which it has been issued, as apparent from the register, shall be liable, on conviction before a Magistrate of Police, to a fine not exceeding rupees one hundred, or, in default of payment of such fine, to simple imprisonment for a period not exceeding three months.

Power to make rules.

14. The Commissioner of Police may, subject to the approval of the Governor in Council, make and publish subsidiary rules[1] not inconsistent with the provisions of this Act for promoting the objects of the same and for the better regulation of public land-conveyances,

Rates of fares to be fixed.

and the said Commissioner of Police shall, from time to time, fix the rates for the fare or hire of such public land-conveyances, specifying whether the hire or fare be for the whole conveyance or for one or more passengers,

Stands to be appointed.

and shall, from time to time, appoint stands or places at which stands and places alone such public conveyances may stand to ply for hire;

Rates and stands to be published.

and the rate so settled, and stands or places so appointed shall, when sanctioned by the Governor of Bombay in Council, be published in the Bombay Government Gazette, and shall thereafter, or until such rates and places shall be again altered by the authorities as aforesaid, be held and taken to be legally fixed and appointed; the Master Attendant having the same power, subject to the same restrictions, over public water-conveyances as the Commissioner of Police has by this section over public land-conveyances.

Penalty for carrying passengers in excess or otherwise violating condition of license.

15. Any licensee, driver or other attendant of any public conveyance, who shall suffer or permit more passengers to be carried by the same than it is licensed to carry, or shall, in any other way, infringe or violate any of the conditions of his license, shall be liable, on conviction before a Magistrate of Police, to a fine not exceeding fifty rupees, or, in default of payment of such fine, to simple imprisonment for a period not exceeding two months.

Penalty for concealing number or

16. If any licensee, driver or other attendant of any public conveyance shall permit or suffer the number or inscription thereof to be in any manner

[1] For a list of places for which such rules have been made, *see* List prefixed to the Bombay Local Rules and Orders, Ed. 1898, Vol. II, pp. XXXVII to XLV.

or by any means concealed from public view, or if any such licensee, driver or other attendant as aforesaid shall, in any way, attempt to prevent or obstruct any person taking or noting the number of such public conveyance, he shall, on conviction before a Magistrate of Police, forfeit for every such offence rupees twenty, or, in default of payment of such fine, be liable to simple imprisonment for a period not exceeding two months.

preventing person taking note thereof.

17. If the licensee, driver or other attendant of any public conveyance, the whole of which has been hired or taken by one or more persons, shall permit or suffer any person to ride or to be carried in, upon or about, such public conveyance, without the express consent of the person or persons hiring the same, such licensee, driver or other attendant shall, for every such offence, on conviction before a Magistrate of Police, forfeit a sum not exceeding rupees twenty, or, in default of payment of such forfeit, be liable to imprisonment as prescribed in the last preceding section.

Penalty for permitting person to ride in public conveyance without consent of hirers.

18. Every licensee, driver or other attendant in charge of any public conveyance shall have with him, when plying for hire, a clean and legible list in English and such vernacular language or languages as the Commissioner of Police or Master Attendant may order, bearing the name in full of the licensee, and showing the rates and fares fixed and appointed to be taken for the fare or hire of his conveyance, with an abstract of the[1] [law] relating to public conveyances, and shall, on demand, produce the same for the information of any hirer of, or passenger by, such public conveyance, under penalty, on conviction before a Magistrate of Police, of a fine not exceeding rupees twenty, and, in default of payment of such fine, he shall be liable to simple imprisonment for a period not exceeding two months.

Drivers, etc., to carry list of fares, etc.

To produce same on demand.

19. The above lists, as also lists of the rates and fares fixed and appointed for public conveyances, and of the stands or places at which the same ply for hire, with an abstract of the law relating to such conveyances and to the licensees and attendants thereof, shall be prepared in the offices of the Commissioner of Police and Master Attendant, and shall be issued to all applicants on payment of a fee of four annas for each copy.

Lists of rates and fares, etc., to be prepared in offices of Commissioner and Master Attendant, and issued to applicants.

20. If any driver or other attendant of any public conveyance shall refuse or neglect to give way, if he conveniently can, to any private conveyance, or shall obstruct or hinder the driver or other attendant of any other public conveyance, in taking up or setting down any person into or from any such

Penalty for refusing to give way to private conveyance or obstructing

[1] The word "law" was substituted for the word "laws" by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

driver of other public conveyance.

other public conveyance, every such driver or other attendant so offending shall, on conviction before a Magistrate of Police, forfeit a sum not exceeding rupees twenty, or, in default of payment of such forfeit, be liable to simple imprisonment for a period not exceeding two months.

Penalty on drivers, etc., for intoxication, etc.

21. Every driver and other attendant of any public conveyance who shall, at any time during such employment, be intoxicated, or who shall refuse to obey the reasonable orders of the person or persons hiring or using his conveyance, or shall, when plying for hire, keep the inside of his conveyance dirty, shall, on conviction before a Magistrate of Police, be liable to a fine not exceeding rupees twenty, and, in default of payment thereof, shall be liable to imprisonment as prescribed in the last preceding section.

Penalty for refusing fare, loitering, demanding excess fare, and plying for hire off stands.

22. If the driver or other attendant of any public conveyance plying for hire, not being a labour-cart,

shall demand prepayment of his fare, or

shall refuse to convey any person desirous of hiring his conveyance, or

shall refuse or delay to proceed with reasonable expedition, or

shall exact or demand for the hire thereof more than the regulated sum, or

shall stand to ply for hire at any place or places other than the stands or places appointed for that purpose,

he shall, for every such offence, on conviction before a Magistrate of Police forfeit a sum not exceeding rupees twenty, and, in default of payment of the same, shall be liable to simple imprisonment for a period not exceeding two months.

Arrest in case of hurt or damage, negligently or wilfully occasioned.

23. The driver or other attendant of any public conveyance who shall by negligence or misconduct cause any hurt or damage may be arrested by any person who shall see such offence committed, and be by him made over to a constable or Police-officer for arraignment before a Magistrate of Police,

Compensation in addition to punishment.

and, in addition to such punishment as may thereupon be inflicted under the law in that case made and provided, the offender shall pay such reasonable compensation to the complainant as such Magistrate shall see fit to award, and in default of payment thereof shall be liable to simple imprisonment for a period not exceeding six months.

In cases of disputes, driver or hirer may be required to proceed to

24. In case of any dispute the hirer of a public conveyance may require the driver or other attendant thereof, and the driver or attendant may require the hirer thereof, to proceed forthwith to the nearest Police Court, where the dispute shall be determined by the Magistrate then sitting.

Should such Police Court be closed, either party may require the other to proceed to the nearest European Police-officer, who shall, if necessary, arrange for the hearing of the complaint at the next sitting of the Court; Police Court, or to nearest European Police-officer.

but if the dispute or complaint take place at a landing-pier or a railway-station, and the hirer be about forthwith to leave the island of Bombay, it shall be competent to the said European Police-officer, after hearing both parties, to determine what sum may be due by the hirer, and to demand and receive the same, together with, in the case of any sum due for compensation under section 29 of this Act, an additional sum of rupees ten, on payment of which such Police-officer, having taken the name and address of the hirer and permitted him to depart, shall thereupon make a report of the dispute or complaint, and deliver the money received by him, to a Magistrate of Police, who, if the claim or complaint of the driver or attendant shall not have been excessive or unjust, may award and pay to the said driver or attendant the amount thereof, not being in excess of the total amount received and delivered by the Police-officer;

but, if any offence shall appear to have been committed against the hirer by the driver or attendant, the owner and driver or attendant shall have no claim to hire or compensation, and the Police Magistrate shall likewise inquire into such offence, and on proof of the same shall adjudge punishment or otherwise proceed according to law, and in either case the Magistrate of Police, having given notice to such hirer, shall on demand return to him the sum paid by such hirer to the Police-officer, or such surplus as may remain thereof.

25. Every licensee of any public conveyance under this Act shall be bound, whenever required by a Police-officer to do so, to cause the same to ply for hire, and every driver or attendant shall, when so required, continue to exercise his calling in the customary manner, Licensee bound when required by Police-officer, to ply for hire.

and for any refusal or failure to comply with such requisition without reasonable cause proved, such licensee, driver or attendant shall be liable, on conviction before a Magistrate of Police, to a fine not exceeding rupees fifty. Penalty for refusal.

26. When any information or complaint shall be made before any Magistrate of Police against the driver or other attendant of any public conveyance, for any offence committed by him, in the exercise of his vocation, against any of the provisions of this Act, such Magistrate of Police may forthwith and from time to time summon the licensee of such public conveyance to appear and produce such driver or other attendant to answer such information or complaint; On information of offence, licensee may be summoned to produce driver, etc.

and if any such licensee shall neglect or refuse personally to appear or to produce such driver or other attendant according to such summons, without a Penalty of default.

reasonable excuse, to be allowed by the Magistrate of Police before whom he ought to appear according to such summons, he shall be liable to fine not exceeding rupees fifty, and it shall be lawful for such Magistrate to hear and determine the said information or complaint in the absence of the said licensee, driver or other such attendant as aforesaid, and upon satisfactory proof of such offence to give judgment against such person for the penalty incurred by reason of such offence.

Proceeding *ex parte*.

Fines and awards how levied.

27. Pecuniary fines, penalties or awards levied, imposed or made under this Act, for which no commutation by imprisonment is herein provided, may be levied by distraint and sale of the offender's moveable property, under warrant of the police Magistrate who has inflicted the punishment, and, if any driver or other attendant shall fail to pay any fine, penalty or award for which commutation by imprisonment shall not have been awarded, the same may be levied by distraint and sale of the moveable property of the licensee of the public conveyance of which the offender was an attendant;

and, in cases wherein imprisonment shall have been adjudged in commutation, the offender shall at any time be released upon paying such proportion of the fine as shall equal the proportion of his whole term of imprisonment still unexpired.

Penalty for refusing to pay legal fare.

Compensation to driver.

28. If any person shall refuse or omit to pay to the driver or other attendant of any public conveyance the lawful fare due to him for the hire or fare of such public conveyance, it shall be lawful for any Magistrate of Police, upon complaint of the same being preferred, and upon proof of the facts made upon oath or solemn affirmation before him, to award reasonable satisfaction to the party so complaining for his fare, and also a reasonable compensation for his loss of time in attending to make and establish his complaint, and, in default of payment, to sentence the defaulter to simple imprisonment for a period not exceeding one month.

Penalty for injury to public conveyance.

Compensation.

29. If any person using a public conveyance under this Act shall wilfully or negligently injure the same, he shall be liable, on conviction before a Magistrate of Police, to a fine not exceeding twenty rupees, and shall also pay to the owner of the public conveyance compensation for the injury, the amount of the compensation to be fixed by the Magistrate and to be recovered as a fine.

Magistrate may award compensation to driver in case of

30. If the driver or other attendant of any public conveyance, not having previously offered his conveyance for hire to the person desirous of hiring it, shall, in civil and explicit terms, declare to such person that his conveyance is actually hired, and shall afterwards, notwithstanding his reply, be proceeded

against for his refusal to carry such person in his said conveyance, and shall upon the hearing of the complaint produce sufficient evidence to prove that such conveyance was at the time actually and *bonâ fide* hired, and it shall not appear that he used any uncivil language, or that he had offered his conveyance for hire to, or improperly conducted himself towards, the party by whom he shall be so proceeded against, or

Groundless complaint.

if the person who has proceeded against him shall not appear to prosecute his complaint,

the Magistrate before whom such driver or other attendant shall be brought may order such person to make the driver or other attendant such compensation for his loss of time in attending to make his defence to such complaint as the Magistrate may deem reasonable, and, in default of payment, may sentence him to simple imprisonment for a period not exceeding one month.

31. All property left in any public conveyance licensed under this Act shall be forthwith deposited by the driver or attendant, as the case may be, in the office of the Commissioner of Police.

Property left in public conveyance to be deposited.

Such property shall be returned to the person who shall prove to the Commissioner of Police that the same belonged to him, on payment of all expenses reasonably incurred, and of such reasonable sum to the driver or attendant as the Commissioner of Police may award,

Restoration to owner.

and any driver or other attendant of any public conveyance licensed under this Act, who shall neglect so to deposit all property left in a public conveyance, shall be liable, on conviction before a Magistrate of Police, to a fine not exceeding rupees fifty, and in default of payment of the same to simple imprisonment for one month, or to both.

Penalty for not depositing.

32. Any Police-officer or constable may arrest without a warrant any person committing in his view any offence against this Act, and may seize and detain in any place of safety until judgment shall be given in the case any conveyance which, for the better fulfilment of the true intent and meaning of this Act, it may be necessary so to seize and detain.

Police may arrest, without warrant, person offending in his view, and may seize and detain public conveyance when necessary.

33. [*Repeal of Act IV of 1841.*] *Rep. Act XII of 1873.*

34. The provisions of this Act may be [1] extended to any town or place in the Presidency of Bombay, by an order to that effect of the Governor in Council published in the Government Gazette not less than thirty days before such extension.

Power to extend Act;

[1] For a list of places to which this Act has been extended, *see* list prefixed to the Bombay Rules and Orders, Vol. II, Ed. 1898, pp. XLV to LII.

to alter scale, and dispose of balance, of fees.

And it shall be lawful in any such case for the Governor in Council to alter the scale, and dispose of the balance, of fees as may seem necessary, and to appoint any person to perform the duties by this Act assigned to the Commissioner of Police and Master Attendant, and to empower all or any Magistrates having jurisdiction at the place to exercise the powers by this Act conferred on the Magistrates of Police, and any such order may be in like manner revoked or altered.

[1] The Governor in Council may, by an order published as aforesaid, direct that in any town or place to which he extends or has extended the provisions of this Act—

(*a*) all or any of the said provisions shall apply to all vehicles, or to any class of vehicles, which are kept, or ordinarily let, for hire, although such vehicles be not used for the purpose of plying for hire;

(*b*) any class of vehicles shall be exempt from all or any of the said provisions.

[1] In this section the word "place" shall be deemed to include, and to have always included, a road between two towns or places.

Convictions under Act final.

35. No conviction under this Act by any Magistrate of Police or Magistrate contemplated in the above section shall be open to appeal or reversal by any other Court.

Construction.

36. Attendants on public conveyances licensed under this Act include drivers, conductors, hamáls, tándels, sarbangs and boatmen.

[2] * * * * * * * * *

Extent.

37. The town and suburbs of Bombay mentioned in this Act comprise whatever has been hitherto included within the limits generally known as the Islands of Bombay and Kolába, together with all land or ground now or which may hereafter be reclaimed from the sea or harbour.

38. [*Commencement of Act.*] *Rep. Act XII of 1873.*

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[1] The last two paragraphs of s. 34 were added by Bom. Act 5 of 1887, *infra*, p. 934.

[2] The words "Words expressed in the singular number shall be held to include the plural" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

BOMBAY ACT No. VII OF 1863.

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SCHEDULE.

BOMBAY ACT No. VII OF 1863. [1]

[*2nd July, 1863.*]

An Act for the summary settlement of claims to exemption from the payment of Government land-revenue, and for regulating the terms upon which such exemption shall be recognized in future, in those parts of the Bombay Presidency which are not subject to the operation of [2]Act XI of 1852 of the Council of India.

Preamble.

WHEREAS in districts which are not subject to the operation of [2]Act XI of 1852 it is expedient to provide, with certain exceptions, for the summary settlement of all claims to hold land, wholly or partially exempt from payment of land-revenue, and for regulating the terms on which such exemption shall be recognized in future so as to preclude all doubt in regard to the relative rights of Government and the holders of such lands, and further to make provision for the exceptions aforesaid; It is hereby enacted :—

1.—[*Repeal.*] *Rep. Act XII of 1873.*

Power to authorize and guarantee continuance, in perpetuity, of land in certain districts to holders on terms and conditions agreed to.

2. *Clause 1st.*—When the holders of lands in any of the said districts (except as is excepted in clause 2 of this section), held either wholly or partially exempt from the payment of Government land-revenue, shall consent to the terms and conditions hereinafter described, in preference to being obliged to prove their title to the exemption enjoyed by them, it shall be lawful for the Governor in Council to finally authorize and guarantee by sanad the continuance, in perpetuity, of the said land to the said holders, their heirs and assigns, upon the said terms, and subject to the said conditions.

Clause 2nd.—The excepted cases to which the authority of adjustment and guarantee vested in the Governor in Council by this provision shall not extend are as follows :—

1st—lands held under treaty :

2nd—lands granted or held as saranjám, or on a similar political tenure :

3rd—lands held for service :

4th—lands already formally adjudicated to be not continuable hereditarily.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1862, Supplement, p. 635; for Report of the Select Committee, *see ibid*, p. 742; and for Proceedings in Council, *see ibid*, p. 715, and *ibid*, 1863, pp. 209 and 234.

As to the application of Bom. Act 7 of 1863, *see* the Bombay Land-revenue Code, 1879 (Bom. Act 5 of 1879), s. 127, *infra*, p. 688.

[2] Vol. I of this Code, p. 53.

Future tenure of lands included in exceptions.

Clause 3rd.—1st—Lands held under treaty shall continue to be held according to the terms of such treaty.

2nd—Lands granted or held as saranjám, or on similar political tenure, shall be resumable or continuable in such manner, and on such terms, as Government, on political considerations, may, from time to time, see fit to [1] determine.

3rd—Lands held for service shall be resumable or continuable under such general rules [2] as Government may think proper, from time to time, to lay down.

4th—Lands already formally adjudicated to be not continuable hereditarily shall continue to be held according to the decision passed in each case.

Clause 4th—[*Rep. Act X of 1876.*]

Lands to which Act does not apply.

3. This Act shall not apply to lands which, in villages held on táluqdárí, bhágdárí, narwádárí, khotí or other similar tenure, may have been partially or wholly alienated by the present or former holders of the said villages or by any one of them; and, in the event of the management of such villages being at any time resumed by Government, all land so alienated shall revert to Government unaffected by the acts of the holders or any of them, so far as the public revenue is concerned, but without prejudice in other respects to the rights of individuals.

4, 5.—[*Commutation of cesses, &c., and of occasional assessments.*] *Rep.* (*locally*) *Bom. Act V of 1879.*

Lands continued under section 2, clause 1, to be heritable and transferable property of holders, subject to fixed annual payment to Government.

6. When the Governor in Council shall, under clause 1 of section 2, finally authorize and guarantee the continuance, in perpetuity, to the holders, their heirs and assigns, of land wholly or partially exempt from the ordinary payment of annual land-revenue, the said lands shall (subject to the enactments contained in section 7 * * *[3] be the heritable and transferable property of the said holders, their heirs and assigns without restriction as to adoption, collateral succession or transfer; and such lands shall thenceforth be continued, in perpetuity, subject to a fixed annual payment to Government, calculated at the rate of two annas for each rupee of the assessment, which assessment shall be ascertainable under the following rules:

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[1] For terms prescribed by the Government of Bombay as to the continuance of saranjáms *see* Bombay Government Gazette, 1898, Pt. I, p. 425, and *ibid*, 1901, Pt. 1, p. 1159.

Cf. also rule 10 of Schedule B of Act 11 of 1852 (Titles to rent free estates.)

[2] For rule under the 3rd clause, in conjunction with Rule 10 of Schedule B of Act 11 of 1852 (Titles to rent free estates), *see* Bombay Government Gazette, 1902, Pt. I, p. 674

[3] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

(*Sec. 6.*)

Rule 1.—The assessment of lands other than those specified in rule 2 shall, with respect to lands which have already been assessed by the revenue-survey now in progress, be the assessment already imposed upon those lands by that revenue-survey, and, with respect to lands which have not yet been assessed by that revenue-survey, shall be such assessment as shall be agreed on by the Collector or settling officer and the owner or holder of the lands, which shall be final: and, in failure of their agreement, it shall be the existing rental of the lands until the revenue-survey now in progress shall have placed a new assessment thereon, after which the assessment so placed by the said revenue-survey shall be understood to be the assessment. Rules for ascertaining amount of assessment.

And it shall be lawful for the duly authorized officers of Government employed in the said revenue-survey to enter upon all lands not heretofore assessed by such revenue-survey, for the purpose of fixing and making such assessment thereof.

Rule 2.—The assessment of lands of such an exceptional character as not to be assessable under the revenue-survey rules shall be in the discretion of the Revenue-officers of Government, which discretion shall be guided, so far as may be, by the rate at which similar land in the same district belonging to Government is let, due regard being had by the said Revenue-officers to all equitable considerations affecting such lands.

Shares of the revenues of villages (such as amals) shall be assessed for the purposes of this Act at the value thereof, calculated at the average shown by such accounts of actual realizations by the holders as are forthcoming for the ten years immediately preceding the promulgation of these rules.

Rule 3.—Lands for which a júdí, sálámí or other quit-rent or land-tax, under whatever denomination, is already paid to Government or may be payable to Government under the sections last preceding, instead of being liable to only one-eighth of the assessment, shall, in addition to the annual amount of such júdí, sálámí, quit-rent or other tax aforesaid, be liable to a further annual quit-rent equal to one-eighth of the sum by which the annual or average annual amount of such júdí, sálámí or other quit-rent or tax aforesaid may fall short of the assessment.

Rule 4.—Quit-rent imposed under this section (section 6) shall be fixed in perpetuity, and shall not be liable to increase or decrease on any new assessment, save in so far as is above in rule 1 of this section (section 6) provided to the contrary, in the case of lands which have not been already assessed by the revenue-survey now in progress.

Rule 5.—The whole of the exempt lands found in the possession of each holder, even if in excess of the original alienation, shall be continued according to the provisions of this section (section 6) and the rules thereunto annexed, and subject to the enactments contained in section 7.

Settlement under section 6, as regards right to levy annual quit-rent, binding on rightful owner, as well as landholder.

7. Any settlement made by the Governor in Council with the holder of land held wholly or partially exempt from the payment of land-revenue in accordance with section 6 * * * [1] and the rules annexed to the said section, shall, so far as the right of Government to levy the annual quit-rent mentioned in the said section is concerned, not only be binding upon such holder, his heirs and assigns, but also on the rightful owner, his heirs and assigns, whosoever such rightful owner may be:

Saving of rights and remedies of rightful owner, his heirs and assigns, against holder, his heirs or assigns.

Provided always that the said rightful owner, his heirs and assigns, shall not by this Act, or anything therein contained, be deprived of any rights or remedies [2] * * * * to which he or they would be entitled against the said holder, his heirs or assigns, for the recovery of the said lands or any part thereof, if this Act had not been passed; and in the event of the rightful owner, his heirs or assigns, recovering the said lands or any part thereof, from the said holder, his heirs or assigns, any declaration, guarantee or settlement made by the Governor in Council under or in accordance with sections 2 and 6 * * * [1], and the rules annexed to the said section 6, with respect to the said lands, while the same were in the possession of the said holder, shall accrue to the benefit of the said rightful owner, his heirs and assigns.

On proof of adjudication of title, holder exempt from quit-rent and from further inquiry into title.

8. Whenever a holder of alienated lands, on being called upon, under the rules to be hereinafter enacted, to declare if he consents to the quit-rent described in section 6, shall plead that his title has already been formally adjudicated, then on proof of such adjudication, and provided the case do not fall under case 4 of clause 2, section 2, the said holder shall be exempt both from liability to the said quit-rent and from any further inquiry into title:

Proviso.

Provided, however, that, if the said holder, for the purpose of enlarging the scope of the former adjudication, or for other reason, shall apply to have his holding brought under the settlement described in the second and following sections [1], * * * he shall be permitted to do so: and the lands shall thenceforth be held with all the privileges conferred by the said settlement and subject to all its conditions as if no previous adjudication had been made.

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words "either at law or in equity" were repealed by the Repealing Act, 1876 (12 of 1876).

(*Sec. 9.*)

9. *Clause 1st.*—In order to ascertain whether a holder of lands, wholly or partially exempt from payment of land-revenue, desires to accept the settlement described in sections 6 and 7 * * * [1], it shall be lawful for the Collector of each [2] * * * district, or for any other officer duly authorized by him, to serve or to cause to be served a notice in writing upon the holder of such lands, calling upon him to state whether he is willing to accept and abide by the settlement aforesaid, or whether he demands formal inquiry into his title.

Collector may serve notice on holder calling on him to state whether he is willing to accept settlement or demands formal inquiry into title.

Clause 2nd.—The notice shall be in the prevailing language of the [2]* * * district in which the lands are situate, and shall explain the nature of the alternatives offered on the part of Government.

Language and form of notice;

Clause 3rd.—It shall be served upon the person holding, or registered in the Government land-registers as holding, the lands wholly or partially exempt from the land-revenue as aforesaid, if he be resident within the limits of the [3] [district].

on whom to be served.

Clause 4th.—If such persons as last aforesaid be not resident within the [3] [district] the notice shall be served upon any person acting for the aforesaid in respect of the lands.

Service when persons not resident within district.

Clause 5th.—When more persons than one hold jointly lands wholly or partially exempt from land-revenue, service of notice upon any one of them shall in every case be sufficient.

Service when several persons hold lands jointly.

Clause 6th.—If the holder be known to reside in another [3] [district] of the Bombay Presidency, and if there be no person acting for him in the [3] [district] in which the lands are situate, the notice shall be sent to the Collector of such other [3] [district] and served or caused to be served by him.

Service when holder known to reside in other district.

Clause 7th.—If there be not any person acting for the holder, and if he cannot be found, the notice shall be served upon some one of the actual occupants of the land (if any) and a copy of such notice shall be posted in the office of the Collector and of the chief Revenue-officer of the táluqá or other sub-division of the [3] [district], and in the chaurí or most public place in the village where the lands are situate.

Service when no person acts for holder who cannot be found.

Clause 8th.—If within six [4] * months after the service of such

Holder making no

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words "collectorate or" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

[3] The word "district" was substituted for the word "collectorate" by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

[4] The word "calendar" was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

answer for six months, deemed to have dispensed with inquiry.

notice in manner aforesaid the person holding the lands wholly or partially exempt from revenue as aforesaid, or his legally constituted agent, shall not give an answer in writing to such notice, stating clearly in such answer that he declines the settlement, and demands an inquiry into the title to such exemption as aforesaid, he shall be deemed to have finally dispensed with such inquiry, and the lands shall be dealt with under sections 2 and 6 [1] * * * and the rules annexed to said section 6.

If no holder or owner discovered, land to be fully assessed.

If no holder or owner can be discovered, the land shall be fully assessed to the public revenue, and shall continue to be so assessed unless some person shall within the period allowed by the law of limitations appear and prove his title to it.

When sufficiency of service of notice or of reply thereto disputed.

Clause 9th.—In the event of any dispute arising as to the sufficiency of the service of any notice or notices under this section, or of any such reply as last aforesaid, or as to its meaning, or as to its having been given within the time required by this Act, the matter so in dispute shall be inquired into by the officer appointed under section 12, and the decision of such officer as aforesaid shall be final, and not open to appeal or question in any Civil Court [2] * * * or elsewhere.

Except that in any case in which the notice has been served by the officer making an inquiry under this section, an appeal against his decision as to the sufficiency of such notice shall lie within thirty days to the [3] * Commissioner [3] * * * whose decision shall be final.

Conduct of inquiry, when claimed.

10. *Clause 1st.*—In the event of the holder upon whom notice has been served as last aforesaid claiming inquiry, such inquiry shall be conducted under the rules and according to the principles hereinafter enacted.

Land held in excess of that to which title is established to be fully assessed.

Clause 2nd.—The establishment of a title to exemption shall not preclude the levy of full assessment on all land ascertained to be held in excess of that to which a title is established, and such excess shall forthwith be fully assessed.

Effect of exemption not being established.

Clause 3rd.—In the event, upon such inquiry as aforesaid, of there being a failure by the holder to establish a title to exemption from payment of land-revenue, the lands to which he has failed to establish such title shall forthwith become and be liable to payment of annual revenue at the full assessment.

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[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words "or Court of Law or Equity" were repealed by the Repealing Act, 1876 (12 of 1876).

[3] The word "Revenue" before "Commissioner" and the words "of the Division" after "Commissioner" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

When holders demand trial and adjudication, deposits to be made and security given.

11. *Clause 1st.*—When the holders of lands, held wholly or partially exempt from the payment of land-revenue, demand a trial and adjudication of their title under the provisions of section 10 [1] * * *, they shall be required to deposit forthwith in the Collector's treasury, or the treasury of the táluqá in which the lands are situated, a sum equal to one-eighth part of the annual assessment of the land, ascertainable according to rules 1 and 2 of section 6 [1] * * * and thereafter to continue to pay annually an eighth of the said assessment as it becomes due from the date of such demand for trial until the date of such adjudication, and to furnish satisfactory security for the payment of the remaining seven-eighths thereof, in case of their failure to prove the title to exemption asserted by them, and, in default of their making such deposits and furnishing such satisfactory security, the full assessment of the land, which is to be the subject of inquiry, shall be levied, pending the adjudication.

Refund of deposits and assessment, with interest, if holder prove title.

Clause 2nd.—If the inquiry result in the establishment of the asserted title, the holder, or, in the event of his decease, his heir who succeeds to possession of the said land, shall be entitled to a refund of all deposits made and assessment levied under the provisions of this section pending such inquiry as aforesaid, and to interest thereon at the rate of five per cent. per annum.

Full amount of land-revenue levied if holder fail to prove title.

Clause 3rd.—If the result of the inquiry be that the holder fail to prove his title, the full amount of land-revenue assessable on the lands from the date of the holder's demand for trial shall be levied from the said holder and his security, or from either of them, any sums deposited or levied pending adjudication as aforesaid being taken in account of the same.

Inquiry by whom to be held.

12. When an inquiry is claimed under the provisions of section 10 * * * [1], such inquiry shall be held before the Collector * * * [2] or, when specially authorized by Government on that behalf, by any Assistant or Deputy Collector.

Steps to be taken by claimant demanding inquiry.

13. When any claimant shall demand an inquiry as aforesaid, he shall, within two months of notifying his intention to that effect, furnish the deposit and security required in such cases by section 11 * * * [1], and forward to the office of the Collector of the district a written statement, setting forth in detail the grounds on which the claim to exemption is founded, accompanied by copies of the original documents (if any) which he wishes to produce in support of the claim, and a list of such other evidence, whether written or

[1] The words " of this Act " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words " or Sub-Collector " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

oral, as he may desire to have exhibited ; and no further evidence beyond such documents and witnesses as may be specifically named in the said statement or its accompaniments shall be admitted in support of such claim without reason assigned to the satisfaction of the trying authority.

On failure to comply with requirements of clause 1, claim to be disallowed.

Clause 2nd.—If any claimant shall fail, within the time specified, to comply with the requirements of clause 1 of this section, except from unavoidable causes, to be proved to the satisfaction of the Collector of the district, his claim shall be finally disallowed, and his land shall be fully assessed forthwith.

Collector to file papers for trial by himself, or forward them to other officer.

Clause 3rd.—On receipt of the said statement and accompaniments, the Collector shall file the papers for trial before himself or forward them for trial to any officer duly authorized under the section last preceding to hold such inquiry ; and the trying officer shall, with reasonable regard to the public convenience and that of all persons interested, fix a time at which the trial shall be proceeded with.

Time of trial to be fixed.

Notice thereof to claimant.

Due notice of the date fixed shall be given to the claimant, who shall be invited to appear in person or by duly constituted agent, with all original documents, on the day appointed for hearing.

Burden of proof of title on claimant demanding inquiry.

14. Whensoever any claimant demands inquiry as aforesaid, the burden of proof of title shall, in every instance, lie and be cast exclusively upon the claimant, and it shall not be lawful for any Civil Court * * * * to place the burden of proof upon Government, or upon the officer or officers representing Government, of a right to levy the ordinary land-revenue upon the lands the subject of any such inquiry as aforesaid ;

and it shall in every instance be presumed, until the contrary is distinctly proved, that Government has the right to levy such ordinary land-revenue upon the lands the subject of any such inquiry as aforesaid.

It is, however, hereby further provided that nothing in this section contained shall disentitle Government or its duly authorized officers to produce and give evidence in rebuttal or disproof of the alleged title to exemption aforesaid, if it seem to Government or its duly authorized officers desirable or necessary to produce and give such evidence.

Claimant allowed benefit of evidence in Government records

15. Any claimant demanding an inquiry into his title shall be allowed the benefit of any evidence to be found in the records of the present or any former Government, in custody of such public officer as is authorized by the

[1] The words " or Court of Law or Equity " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

British Government to have charge of the same, and such public officer shall be bound to search for and to produce the same on application made to him. in custody of public officer.

16. The trying authority shall not be bound to admit any sanad as evidence in support of a claim to exemption, which shall not bear an endorsement as having been registered by a Collector before the expiration of one year from the date on which [1] section 42 of Regulation XVII of the Bombay Code of 1827 came into force, *i.e.*, the first September of that year. Trying authority not bound to admit in evidence certain sanads.

17. *Clause 1st.*—For the conduct of the inquiry, the rules of the [2]Code of Civil Procedure in regard to the service of summons on, and the attendance and examination of, witnesses, whether called by the claimant or on the part of Government, shall be followed, except in so far as may otherwise be specified in this Act; Code of Civil Procedure applied to service of summons on, and attendance and examination of, witnesses.

XXIII of 1861.

and the office of the Collector or other trying authority shall, for the purpose of this inquiry, be constituted a Court of civil judicature as contemplated by the said Code. Office of Collector a Civil Court.

18. The Collector or other trying authority shall keep a record of his proceedings in the language generally spoken in the zila. Language of record of proceedings.

He shall also record in English his decision, with a full statement of the grounds on which it is passed; and a translation of such decision and statement shall, at the close of the inquiry, be given to the claimant or party attending on his behalf. Translation of decision to be given to claimant.

Clause 2nd.—Except in regard to the translation last aforesaid, and to the statement with accompaniments described in section 13, clause 1, the provisions of [3] [the Court-fees Act, 1870], shall be held applicable to all petitions or other papers presented by or on behalf of the claimant, and the cost of all stamps so required shall be borne wholly by the said claimant. Court-fees Act applied.

VII of 1870.

19. *Clause 1st.*—If the decision of the Collector or trying authority be in favour of the continuance of the exemption or any portion thereof, such exemption shall be admitted in terms of the decision, which shall be final. Decision in favour of continuance of exemption to be final.

Clause 2nd.—If the decision be against the right of the claimant to the total or partial exemption claimed, the claimant shall be at liberty to appeal to the Zila Court within ninety days from the date of that decision: provided that the annual value of the exemption decided against be rupees fifty or up- Appeal by claimant from adverse decision.

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[1] S. 42 of Bom. Reg. 17 of 1827 was repealed by s. 1 of this Act.

[2] *See* now the Code of Civil Procedure (Act 14 of 1882), as modified up to 1st December, 1899.

[3] Substituted for the words "the Stamp Act" by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224. For the Court-fees Act, 1870 (7 of 1870), *see* the revised edition, as modified up to 1st October, 1899.

wards and that proceedings under section 10, clause 3, shall not in any case be stayed pending the result of such appeal.

Refund if appeal succeed.

Clause 3rd.—If the result of the appeal be in favour of the claim, the amount which may have been levied under section 10, clause 3, shall be refunded.

Forfeiture by claimant producing in appeal new evidence not produced at original trial.

Clause 4th.—If any evidence, oral or documentary, not produced before the Collector or trying authority, be admitted in appeal without the claimant showing sufficient cause why such evidence was not previously produced, and proving that such cause was assigned to the Collector, or adducing good reason for its not having been so assigned, the said claimant shall forfeit, even if the appeal be successful, all sums which may have been levied from him under section 10.

Court-fees Act applied.

Clause 5th.—The provisions of [1] [the Court-fees Act, 1870], shall be applicable to all proceedings under appeal. VII of 1870.

Bar to setting aside Collector's decision.

Clause 6th.—The decision of the Collector or trying authority shall not be liable to be set aside on appeal, on account of want of form or on any other technical ground.

When exemption claimed under sanad, etc., may be admitted in terms of grant.

20. *Clause 1st.*—When exemption is claimed under a sanad or other writing granted by the present or any former Government, or by any of their officers possessing authority to grant the same, exemption shall be admitted in terms of the grant, unless evidence be forthcoming to show that the terms of such grant did not take effect or were subsequently modified, cancelled or revoked by competent authority.

Officers recognized as authorized to grant or revoke sanads, etc.

Clause 2nd.—The public officers specified in the [2] * schedule are recognized to have possessed authority under former Governments to grant or revoke sanads or other writings exempting land either wholly or partially from the payment of land-revenue.

Admission of claims to exemption in virtue of prescription.

21. Claims to exemption from payment of land-revenue, in virtue of prescription, shall be admitted under the following circumstances :—

Clause 1st.—When land situated in districts ceded by or conquered from the Peshwa after 1803 is proved to have been held by any person, his heirs or others deriving right from him, wholly or partially exempt from payment of land-revenue, under a tenure recognized by the custom of the country, for

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[1] Substituted for the words "the Stamp Act" by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 225. For the Court-fees Act, 1870 (7 of 1870), *see* the revised edition, as modified up to 1st October, 1899.

[2] The word "annexed" was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

sixty years in succession next preceding the date of this Act; or when land situated in any other district is proved to have been held in like manner for thirty years as aforesaid.

Clause 2nd.—Provided, however, that, whenever exemption has been enjoyed under a sanad or other writing, no title by prescription shall be admitted unless the full period required under the last preceding clause shall have lapsed subsequent to the expiry of the title under the sanad or writing aforesaid.

Clause 3rd.—And that in no case shall a title to prescription be admitted in respect to Government lands alienated since the British Government obtained possession of the country, and without its permission.

Clause 4th.—And further, that the exemption during the periods of sixty and thirty years, respectively, as detailed in clause 1 of this section, be proved to have been enjoyed in strict conformity with the conditions of the recognized tenure under which it is claimed.

Conditions on which admitted prescriptive title to continue to be recognized.

22. A prescriptive title admitted under the preceding section shall continue to be recognized only in conformity with the conditions of the tenure under which the exemption has been hitherto enjoyed.

Prescriptive title when not admitted.

23. A prescriptive title under section 21 shall not be admitted in respect to any land held for service, or on a tenure implying an obligation of service, whether such service be performed or not.

Sanad, etc., prescriptive of enjoyment not sufficient title in so far as exemption annulled by order issued by present or former Government, etc.

24. *Clause 1st.*—A sanad or other writing under section 20, of prescriptive enjoyment under a recognized tenure as described in section 21, shall not be considered a sufficient title, in so far as the exemption has been wholly or partially annulled by an order issued by the present or any former Government, or by any public officer possessed under a former Government of full and sufficient authority to grant deeds exempting lands from the payment of public revenue, or so far as the land has been assessed under an order, not subsequently recalled, issued by any of the said public officers and such assessment has been realized.

Deed or enjoyment under recognized tenure when not sufficient title.

Clause 2nd.—Nor shall such a deed or writing, or such enjoyment under a recognized tenure, be considered as a sufficient title, if the land has been subsequently assessed for the period of twelve (12) years like other land of the same description enjoying no exemption, and the assessment has been realized but without prejudice to any suit filed in support of the title to exemption before the completion of the said period.

Title when affected only to extent

Clause 3rd.—And, where the assessment so levied for twelve (12) years has not been to the extent of that imposed on land of the same description

of assessment made and realized.

enjoying no exemption, such assessment shall affect the title only to the extent of the assessment so made and realized.

Adoptions when not admitted.

25. Adoptions unrecognized by the present or former Government or by one of their public officers possessed of competent authority shall not be admitted in any cases in which a claim to exemption is founded on a grant limiting succession to lineal descent.

Application of sections 20 to 25.

26. The provisions of sections 20 to 25 shall be of general application in all cases in which inquiry may have to be made, and shall not be confined to cases in which inquiry may have been demanded under section 10* * *[1].

27.—[*Pending proceedings.*] *Rep. Act XII of 1873.*

Appeal from proceedings of officers making settlement.

28. When any settlement of a claim or claims to total or partial exemption from land-revenue has been made by the Governor in Council, or any duly authorized officer of Government under this Act, * * * * * * *[2], any appeal from or against the proceedings, orders or acts of the officers of Government engaged in making any such settlement shall be made to the Governor in Council, or to such officer or officers as may be appointed by the Governor in Council to take cognizance of such appeals, and shall not be cognizable by any other authority.

29.—[*Bar of suits against Government officers.*] *Rep. Act X of 1876.*

Quit-rents how levied.

30. All quit-rents payable under this Act shall be levied in the manner in which ordinary land-revenue is recoverable, and the claim of Government to such quit-rents shall have precedence over any other debt, demand or claim whatsoever, whether in respect of mortgage, judgment, decree, execution or attachment, or otherwise, howsoever against the lands or the holder or holders thereof.

Power to enter lands to measure or assess same.

31. Whenever it shall be necessary either to measure or to assess any lands in order to give effect to any of the provisions of this Act, it shall be lawful for the Collector or officer duly authorized by him to enter upon the same at any time and from time to time for the purpose of making an assessment or assessments thereof.

Interpretation-clause.

32. (*A.*) [*Number and gender.*] *Rep. Bom. Act III of 1886.*

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[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904) Vol. IV of this Code.

[2] The words "it shall not be competent for any Civil Court, or Court of Law or Equity, to question such settlement, so far as regards the right of Government to levy from the holder or holders of the lands for the time being the annual quit-rents mentioned in the second and sixth sections of the said Act" were repealed by the Bombay Revenue Jurisdiction Act, 1876 (10 of 1876), Vol. I. of this Code, p. 115.

(*B*) the word "lands" shall, for the purposes of this Act, be understood to include villages, portions of villages, shares of the revenues thereof, and landed estate of every description :

(*C*) "political tenure" is tenure created from, or dependent upon, political considerations, the existence of which shall be determined by the Government :

(*D*) the phrase "lands held for service" shall include lands specially granted, or held or continued, nominally for the performance of service, whether that service be actually performed or not, and lands granted, held or continued, partly in consideration of past service and partly for the performance of prospective service, but shall not include lands granted in consideration of past service only ; and it is to be understood that Government shall be competent to determine any question that may arise in giving effect to this Act as to whether or not any lands are lands held for service :

(*E*) "formal adjudication" shall be held to mean final adjudication under any regulation of the Bombay Government, or final decision by the British Government or some authorized officer thereof :

(*F*) for the purposes of this Act, the word "holder" shall be taken to signify the person who, by himself, his tenants, sub-tenants or agents, is in possession of the land held wholly or partially exempt from land-revenue assessment, and shall include a mortgagee in possession as aforesaid. The committee, manager or trustee of any temple, who may be in possession of such lands, shall be considered the holder thereof :

(*G*) the word "transfer" shall, for the purposes of this Act, be taken to mean the permanent alienation of land by assignment, gift, sale, deed or other instrument, or otherwise howsoever, and also mortgage of the same under which possession shall have passed or is to pass to the mortgagee.

SCHEDULE.

(*See Section 20, Clause 2nd.*)

LIST OF OFFICERS WHO, UNDER FORMER GOVERNMENTS, HAD POWER TO CONFER GRANTS EXEMPTING LANDS WHOLLY OR PARTIALLY FROM THE PAYMENT OF PUBLIC REVENUE.

UNDER THE EMPERORS OF DELHI.

Subadárs of Provinces.

IN THE TERRITORIES THAT WERE SUBJECT TO THE PESHWA.

The Peshwa.

All officers holding the mutálakí seal.

All sarsubahdárs in their districts.

All superior local functionaries acting directly under the Peshwa, without the intervention of any superior authority, if the deeds bear date prior to 1803.

The Gáikwár considered as a sarsubahdár in the Peshwa's territories to the north of the Maihi, during the period that he held them in farm.

IN THE TERRITORIES THAT WERE SUBJECT TO THE GÁIKWÁR.

The Gáikwár.

All officers holding the mutálakí seal.

IN THE TERRITORIES THAT WERE SUBJECT TO SCINDIA.

Scindia.

His officers holding the mutálakí seal.

IN THE TERRITORIES THAT WERE SUBJECT TO HOLKAR.

Holkar.

His officers holding the mutálakí seal.

IN THE TERRITORIES THAT WERE SUBJECT TO THE NIZAM.

The Nizam.

IN THE DISTRICTS THAT WERE SUBJECT TO THEM.

The Nawáb of Surat.

The Nawáb of Broach.

BOMBAY ACT No. II OF 1864 [1].

[*22nd September, 1864.*]

An Act to provide for the periodical survey of steam-vessels in the ports, harbours, rivers or waters of the Presidency of Bombay.

PREAMBLE. [*Rep.* [2]*Act VI of 1884.*]

Sections of Merchant

1 to 14. [*Survey of Steam-vessels.*] [2]*Rep. Act VI of 1884.*

15. It is hereby declared that sections 292, 293 and 294 of the Merchant

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1863, Supplement, p. 383; for Report of the Select Committee, *see ibid*, p. 396, and for Proceedings in Council, *see ibid*, pp. 406, 422, 483, and *ibid*, 1864, p. 226.

Bom. Act 2 of 1864 has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Ed. 1898, Vol. II, p. 467, to be in force in the Province of Sindh—*See* Appendix to Vol. I of this Code, p. 331.

[2] General Acts, Ed. 1898, Vol. IV, p. 713.

Shipping Act (17 & 18 Vict., chap. 104)[1], and Schedule S of that Act are and shall be applicable to all steam-vessels proceeding to sea from any port or place in the Presidency of Bombay or its Dependencies, and that, in calculating the penalties mentioned in the said section 293, ten rupees be taken as the equivalent for one pound sterling.

Shipping Act, 1854, applied to steam-vessels proceeding to sea from ports in Bombay.

16, 17.—[*Trial of offences; Recovery of penalties and fees; Interpretation.*] *Rep. Act VI of 1884.*

SCHEDULES A AND B.
(*Form of Certificate; Fees*).
[*Rep. Act VI of 1884.*]

BOMBAY ACT No. I OF 1865.[2]

[*21st January, 1865.*]

An Act to provide for the survey, demarcation, assessment and administration of lands held under Government, in the districts belonging to the Bombay Presidency, and for the registration of the rights and interests of the occupants of the same.

PREAMBLE. [*Rep., locally, Bom. Act V of 1879.*]

1 to 36. [*Rep., locally, Bom. Act V of 1879.*]

[3] **37.** Whenever, in the Ratnagiri collectorate and in the Raigarh, Rájpurí and Sanksí táluqás of the Táná collectorate, the survey-settlement is introduced into villages or estates held by Khots, it shall be competent for the Superintendent of Survey or Settlement-officer, with the sanction of the Governor in Council, to grant the Khot a lease for the full period for which the

Leases for period for which settlement guaranteed may be granted to Khots in Ratnagiri

[1] *See* now the Merchant Shipping Act, 1894 (57 & 58 Vict., cap. 60), Collection of Statutes relating to India, Ed. 1901, Vol. II, p. 971.

[2] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1864, Supplement, p. 285; for Report of the Select Committee, *see ibid*, p. 364; and for Proceedings in Council, *see ibid*, pp. 268, 554, 568 and 624.

Bom. Act 1 of 1865 has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Ed. 1898, Vol. II, p. 467, to be in force in the districts of Thar and Parkar and the Upper Sindh Frontier, *see* Appendix to Vol. I of this Code, p. 331.

It was declared applicable to towns and cities by Bom. Act 4 of 1868, which, however, has been repealed by the Bombay Land-revenue Code, 1879 (Bom. Act 5 of 1879), *infra*, p. 631, in areas in which that Code is in force.

Bom. Act 1 of 1875 repealed, locally, by the Bombay Land-revenue Code, 1879 (Bom. Act 5 of 1879), *infra*, p. 631, is to be read with and taken and construed as part of Bom. Act 1 of 1865—*see* s. 3 of the Act of 1875. That Act has not however been republished in this Code.

[3] Ss. 37 and 38 of Bom. Act 1 of 1865 are repealed so far as they apply to any village in the Ratnagiri or the Kolaba District to which the Khoti Settlement Act, 1880 (Bom. Act 1 of 1880) extends or is extended—*see* s. 2 of the latter Act, *infra*, p. 776.

and in certain tálukás of the Tànà collectorate.

settlement may be guaranteed, in place of the annual agreements under which such villages have hitherto been held, and, further, the provisions of [1] section 36 in respect to the right of permanent occupancy at the expiration of a settlement-lease shall hold good in regard to those villages or estates.

Power to fix demands of Khot on tenant at time of survey.

[2] **38.** It shall also be competent to such officer, with the sanction of the Governor in Council, to fix the demands of the Khot on the tenant at the time of the general survey of a district, and the terms thus fixed shall hold good for the period for which the settlement may be sanctioned.

Proviso.

But this limitation of demand on the tenant shall not confer on him any right of transfer by sale, mortgage or otherwise, where such did not exist before, and shall not affect the right of the Khot to the reversion of all lands resigned by his tenant during the currency of the general lease.

39 to 51. [*Rep., locally, Bom. Act V of 1879.*]

BOMBAY ACT No. III OF 1865[3].

[*31st July, 1865.*]

An Act to amend [4]Act XXI of 1848 (*for avoiding Wagers*).

Preamble.

WHEREAS it is expedient, so far as regards the Presidency of Bombay, to amend Act XXI of 1848 [4] (*for avoiding wagers*); It is enacted as follows:—

Contracts declared null and void.

1. All contracts, whether by speaking, writing or otherwise, knowingly made to further or assist the entering into, effecting or carrying out agreements by way of gaming or wagering, and all contracts by way of security or guarantee for the performance of such agreements or contracts, shall be null and void; and no suit shall be allowed in any Court of Justice for recovering any sum of money paid or payable in respect of any such contract or contracts, or any such agreement or agreements as aforesaid.

No suit allowed on such contracts.

Nor for commission or brokerage,

2. No suit shall be allowed in any Court of Justice for recovering any commission, brokerage, fee or reward in respect of the knowingly effecting or

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[1] S. 36 was repealed (locally) by the Bombay Land-revenue Code, 1879 (Bom. Act 5 of 1879), *infra*, p. 631.

[2] *See* the third footnote on p. 451 *supra*.

[3] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1863, Supplement, p. 420; for Report of the Select Committee, *see ibid*, p. 485; and for Proceedings in Council, *see ibid*, pp. 407, 452, 505 and *ibid*, 1864, pp. 407 and 507.

Bom. Act 3 of 1865 is void so far as it purports to affect the High Court. It has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Ed. 1898, Vol. II, p. 467, to be in force in the Province of Sindh, *see* Appendix to Vol. I of this Code, p. 331.

[4] Act 21 of 1848 was repealed by the Indian Contract Act, 1872 (9 of 1872), s. 1, but see the saving in that section. For Act 9 of 1872, *see* the reprint as modified up to 30th June, 1901.

carrying out, or of the knowingly aiding in effecting or in carrying out, or otherwise claimed or claimable in respect of, any such agreement by way of gaming or wagering or any such contract as aforesaid, whether the plaintiff in such suit be or be not a party to such last-mentioned agreement or contract, or for recovering any sum of money knowingly paid or payable on account of any persons by way of commission, brokerage, fee or reward in respect of any such agreement by way of gaming or wagering or contract as aforesaid. etc., in respect of agreements by way of gaming or wagering.

3. No guardian, executor, administrator, heir or personal representative of any deceased person shall be entitled to or allowed credit in his accounts for or in respect of any payment by him on behalf of such deceased person (or in the case of a guardian, on behalf of any minor), in respect of any such agreement or agreements as are mentioned in section 1 of [1]Act XXI of 1848 or in respect of any such contract or contracts, commission, brokerage, fee or reward, or money paid or payable in respect thereof as are respectively mentioned in the first and second sections of this Act. Payments for which guardian and personal representative not to be allowed credit.

4. [*Construction of Act.*] *Rep. Act XVI of 1895.*

5. [*Number and gender.*] *Rep. Bom. Act III of 1886.*

BOMBAY ACT No. VII OF 1865.[2]

[*5th December, 1865.*]

An Act to extend the provisions of Act of the Governor General of India in Council, [3] No. XX of 1863 to the district of Kanára in the Bombay Presidency.

WHEREAS it is expedient to extend the provisions of [3]Act No. XX of 1863 (*An Act to enable the Government to divest itself of the management of religious endowments*) to the district of Kanára in the Bombay Presidency; It is enacted as follows:— Preamble.

1. The provisions of [3]Act No. XX of 1863 are hereby extended to the district of Kanára in the Bombay Presidency. Act XX of 1863 extended to Kanára.

2. A notice of the appointment of the committee referred to in section 7 of [3]Act XX of 1863, shall, if posted at the mamlatdar's office, be equivalent to a notification of such appointment in the official Gazette. Notice of appointment of committee.

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[1] Act 21 of 1848 was repealed by the Indian Contract Act, 1872 (9 of 1872), but see the saving in that section. For Act 9 of 1872, see the reprint as modified up to 30th June, 1901.

[2] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1865, Supplement, p. 239; and for Proceedings in Council, *see ibid*, pp. 278 and 313.

[3] The Religious Endowments Act, 1863 (20 of 1863), General Acts, Vol. I, p. 405.

Interpretation-clause.

3. The words "Board" and "Board of Revenue", as used throughout [1]Act XX of 1863, shall, for the purposes of this Act, be held to mean the Revenue Commissioner of the division.

BOMBAY ACT No. VIII OF 1865.[2]

[*27th December, 1865*].

An Act to authorize taxation in the Province of Sindh for objects of public local utility and improvement.

Preamble.

WHEREAS it is expedient to provide funds for local works of public utility and improvement [3]* * * * * * * ; It is enacted as follows :—

Levy of local cess on lands.

1. It shall be lawful to levy for the purposes of this Act from all lands in the Province of Sindh a cess not exceeding one anna on every rupee assessable to the ordinary land-revenue, and such cess shall be levied in the same manner, and under the same rules, as the ordinary land-revenue :

Levy of cess on settled lands.

Provided that in all cases where an assessment of land-revenue has been authoritatively fixed for a term of years before this Act comes into operation and no cess has been theretofore levied upon such assessment, the cess authorized by this Act to be levied shall not be levied until the expiration of such term :

Cess on lands hereafter settled to be imposed at time of settlement.

Provided also that, in respect of lands of which a settlement for a term of years may be made after this Act comes into operation, such cess be imposed at the time when such settlement is made, and at no other period during the currency of the term.

Cess on alienated lands.

2. It shall also be lawful, in the case of jágír and other alienated lands, to levy such cess at the rate [4][of] five per centum on the assessable value of those lands, instead of the rate hereinbefore directed to be levied.

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[1] The Religious Endowments Act, 1863 (20 of 1863), General Acts, Vol. I, p. 405.

[2] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1865, Supplement, p. 230 ; for Report of the Select Committee, *see ibid*, p. 261 and for Proceedings in Council, *see ibid*, pp. 254, 278 and 310.

Short title "The Sindh Local Funds Act, 1865", *see* s. 2 of the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884), *infra*, p. 829.

The net proceeds of the cess on land and of the shop-tax levied under Bom. Act 8 of 1865 are to be credited to the Local Fund constituted by the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884), *see* s. 44 of that Act, *infra*, p. 829.

[3] The words "and to aid in defraying the expense of the Department of Public Works in the Province of Sindh" were repealed by the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884), *infra*, p. 829.

[4] The word "of" was substituted for the words "heretofore customarily levied, namely" by the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884).

Levy of cess from farmers of land or saír revenue.

3. It shall also be lawful to levy a cess not exceeding one anna on every rupee leviable under the head of land or saír revenue from all farmers of land or saír revenue who may take farms subsequently to this Act coming into operation.

Levy of shop-tax.

4. It shall also be lawful to levy a shop-tax at rates according to classes to be approved and notified by the Commissioner in Sindh from time to time, but in no case exceeding rupees ten per annum for each shop, and such tax shall be leviable from all persons who carry on any profession, trade or employment for gain, and use a shop or office for the purpose, and shall be enforced in the same manner and under the same rules as are provided for the levy of land-revenue, so far as applicable.

Cess and tax by whom levied and how collected.

5. The cess and tax to be levied under this Act shall be levied by the Commissioner in Sindh under the orders of the Governor in Council of Bombay, and shall be collected by such officers as the said Commissioner, acting under such orders, shall direct to collect the said cess and tax.

6 to 8. [*Assignment of portion of taxes to local fund committees; payment of residue to Government; account to be kept.*] *Rep.*[1] *Bom. Act I of 1884.*

BOMBAY ACT No. VII OF 1866.[2]

[*31st May, 1866.*]

An Act to limit the liability of a son, grandson or heir of a deceased Hindú for the debts of his ancestor, and the liability of the second husband of a Hindú widow for the debts of her deceased husband, and otherwise to amend the law of debtor and creditor.

Preamble.

WHEREAS, according to the law in force, as applied to Hindús by the High Court of Judicature at Bombay in the exercise of its ordinary original civil jurisdiction, no son or grandson of a deceased Hindú is liable for the debts of his ancestor merely by reason of his being such son or grandson, and no son, grandson or other heir of a deceased Hindú, who has received assets of the deceased, is merely from that circumstance liable for the debts of his ancestor

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[1] *Infra*, p. 829.

[2] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1866, Supplement, p. 320; for Report of the Select Committee, *see ibid*, p. 357 and for Proceedings in Council, *see ibid*, pp. 330, 352, 372 and 373.

Bom. Act 7 of 1866 has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Ed. 1898, Vol. II, p. 467, to be in force in the Province of Sindh, *see* Appendix to Vol. I of this Code, p. 331.

beyond the amount of the assets received, and no person marrying a Hindú widow is liable in consequence of such marriage for the debts of her former or any prior deceased husband;

and whereas a different law is applied to Hindús by the Civil Courts which exercise jurisdiction in places beyond the local limits of the ordinary original civil jurisdiction of the said High Court, and it is expedient to amend the law as applied by such other Courts, and to make the law in that respect uniform throughout the Presidency of Bombay;

and whereas it is also expedient to limit the liability of a Hindú for a family-debt contracted when he was unborn or under twenty-one years of age;

It is hereby enacted and declared as follows:—

Hindú son or grandson not liable as such for debt of ancestor.

1. No son or grandson of a deceased Hindú shall, merely by reason of his being such son or grandson, be liable to be sued for any of the debts of such deceased Hindú.

Heir to be liable as representative of deceased ancestor only to extent of assets received.

2. No son, grandson or heir of a deceased Hindú, who has by himself or his agent received or taken possession of any property belonging to the deceased, shall be liable personally for any of the debts of the deceased, merely by reason of his having so received or taken possession of any such property; but the liability of such son, grandson or heir, in respect of such debts, shall be as the representative of such deceased Hindú, and shall be limited to paying the sum out of and to the extent of the property of the deceased which such son, grandson or heir, or any other person by his order or to his use, has received or taken possession of as aforesaid, and which remains unapplied:

Liability in respect of assets received and not applied.

Provided that, if any part of such property so received or taken possession of as aforesaid shall not have been duly applied by such son, grandson or heir, he shall be liable personally for such debts to the extent of the property not duly applied by him.

3.—[*Pending suits.*] *Rep. Act XII of 1873.*

Husband of Hindú widow not liable for debt of deceased former husband.

4. No person who has married a Hindú widow shall, merely by reason of such marriage, be liable for any of the debts of any prior deceased husband of such widow.[1]* * * * * * * * * * *

[1] The rest of s. 4 which was as follows—" and the provisions of this section may be used as a defence by any such person who shall be defendant in a suit which may be pending at the time when this Act comes into operation, and in which it is sought to make such person liable for any such debts merely by reason of his having married such Hindú widow, and in which suit judgment shall not have been pronounced before this Act comes into operation; and with regard to the costs of any suit to which the provisions of this section shall apply, the same shall be dealt with by the Court which makes the decree in the suit, in the same way as such costs would have been dealt with had a decree been made in such suit before this Act had come into operation" was repealed by the Repealing Act, 1873 (12 of 1873).

Liability of member of undivided Hindú family for family debts contracted during his minority.

5. Where a debt is contracted after this Act shall come into operation by one or more members of an undivided Hindú family, under such circumstances as that the same forms the debt of the undivided family, no member of such undivided family, who is unborn or under the age of twenty-one years at the time of the contracting of such debt, shall be liable personally to pay the same, but such member shall only be liable to pay the same out of and to the extent of the property of the undivided Hindú family, and of the separate property, if any, belonging to any deceased members of the undivided family who were above the age of twenty-one years at the time of the contracting the same, received or taken possession of by such member or any other person by his order or to his use and remaining unapplied, unless any part of such property so received or taken possession of as aforesaid shall not have been duly applied by such member, in which case he shall be further liable personally for such debt to the extent of the property not duly applied by him.

Saving of liability of surviving member of undivided Hindú family.

6. Except as provided in section 5 * * *[1], nothing in this Act contained shall be construed as limiting or affecting the liability of any person as surviving member or one of the surviving members of an undivided Hindú family for any debt contracted under such circumstances as that the surviving member or surviving members of such undivided family is or are by the law now in force liable to pay the same.

Interpretation.

7. The term "debts", as used in this Act, shall be construed to include all liabilities arising out of any claims which could or might be enforced against a deceased Hindú himself if living, and for which a suit would lie against his representative. [2]* * * * * * * * * * *

8.—[*Commencement of Act.*] *Rep. Act XII of 1873.*

Short title.

9. This Act may be cited for all purposes as the Bombay Hindú Heirs' Relief Act, 1866.

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[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been reprinted as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The rest of s. 7 which was as follows—"and unless there be something in the context or subject repugnant to such construction, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number, and words importing the masculine gender shall include females" was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

BOMBAY ACT No. XII OF 1866.

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BOMBAY ACT No. XII OF 1866.[1]

[*11th July, 1866.*]

An Act to declare the constitution of Courts of Civil and Criminal Judicature in the Province of Sindh.

Preamble. WHEREAS it is expedient to declare by law the constitution of the Courts of civil and criminal judicature in the Province of Sindh, and to provide for

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1864, Supplement, p. 9; for Report of the Select Committee, *see ibid*, p. 537, and *ibid*, 1866, p. 337, and for Proceedings in Council, *see ibid*, 1864, p. 267, and *ibid*, 1866, pp. 315 and 371.

the due administration of justice therein; It is declared and enacted as follows:—

Court of the Judicial Commissioner.

[1]1. There shall be for the Province of Sind a Court of the Judicial Commissioner of Sindh (hereinafter called the Court of the Judicial Commissioner) which shall be the highest Court of appeal in civil and criminal matters in the said Province and which shall be the District Court and Court of Session of Karachi. The Court of the Judicial Commissioner shall consist of three or, with the sanction of the Government of India, more Judges, one of whom shall be the Judicial Commissioner of Sindh (hereinafter called the Judicial Commissioner) and the others Additional Judicial Commissioners. One of the Additional Judicial Commissioners shall be a barrister of not less than five years' standing. All Regulations, Acts, notifications and rules now in force and applying to the Sadr Court of Sindh shall, so far as they are not inconsistent with this Act or with any notifications or rules hereafter duly published or made, be deemed to apply also to the Court of the Judicial Commissioner.

Jurisdiction of Judicial Commissioner.

[1]1A. The Judicial Commissioner and Additional Judicial Commissioners shall be appointed by the Local Government, by whom alone they shall be liable to be suspended or removed. They shall, within the District and Sessions Division of Karáchi, each of them exercise all the jurisdiction and have all the powers of a Judge of a District Court and of a Sessions Judge; and all Regulations, Acts, notifications and rules now or hereafter in force and applying to the Judge of the District Court or Sessions Judge of Karáchi shall, so far as they are not inconsistent with this Act or with any notifications or rules hereafter duly published or made, be deemed to apply also to each such Judicial Commissioner and Additional Judicial Commissioner.

District Courts.

2. There shall be in each district in the Province of Sindh a District Court; and [2][save as hereinbefore provided] every such Court shall be presided over by a Judge appointed by the [3] Governor of Bombay in Council, by whom only he shall be liable to be suspended or removed.

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[1] Sections 1 and 1A were substituted by the Sindh Courts Amendment Act, 1906 (Bom. Act 1 of 1906), Vol. IV of this Code.

The original section 1 was as follows:—

"1. There shall be in the Province of Sindh a Sadr Court, which shall be the highest Court of appeal in civil and criminal matters in the said Province, within the meaning of the Codes of Civil and Criminal Procedure. The Sadr Court shall be presided over by a Judge appointed by the Governor of Bombay in Council, and such Judge may also be the Judicial Commissioner of the Province of Sindh."

[2] These words were inserted by s. 3 of the Sindh Courts Amendment Act, 1906 (Bom. Act 1 of 1906), Vol. IV of this Code.

[3] Local Government(?) *Cf.* s. 9 of the Sindh Courts Amendment Act, 1906 (Bom. Act 1 of 1906), Vol. V of this Code.

Jurisdiction of District Court.

3. The District Court shall, within the meaning of the [1] Code of Civil Procedure be the principal Court of original civil jurisdiction in the districts in which it is established, and shall also exercise the jurisdiction vested in the Court of Session by the [2] Code of Criminal Procedure or by any other law for the time being in force in the Province of Sindh. VIII of 1859. XXV of 1861.

Subordinate Civil Courts.

4. There shall be, in each district in the Province of Sindh, so many subordinate Civil Courts as the [3] Governor of Bombay in Council acting under the general control of the [4] [Government of India] shall from time to time [5] direct.

Every such Court shall be a subordinate Court of original civil jurisdiction within such limits [5] as the Commissioner in Sindh, with the sanction of the [3] Governor of Bombay in Council, shall from time to time determine, and shall be presided over by a Judge appointed by the Commissioner in Sind.

Jurisdiction of subordinate Civil Court.

5. Unless otherwise provided by any law for the time being in force, the jurisdiction of every such subordinate Court shall extend to all suits and proceedings of a civil nature wherein the value or subject-matter of the claim shall not exceed five thousand rupees.

Regular appeals to Sadr Court.

6. A regular appeal shall lie from the decisions of the Judge of a District Court in the exercise of his original civil jurisdiction to the [6] [Court of the Judicial Commissioner] whenever such appeal is allowable under the [1] Code of Civil Procedure or under any other law for the time being in force in the Province of Sindh. VIII of 1859.

7. [*Applications may be forwarded to Sadr Court by post.*] *Rep.* [7]*Bom. Act I of 1906.*

Regular appeals to District Court.

8. A regular appeal shall lie from the decisions of the Judge of a subordinate Court to the District Court of the district within which such subordinate Court is situated, whenever such appeal is allowable under the [1] Code of Civil Procedure or under any other law for the time being in force in the Province of Sindh. VIII of 1859.

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[1] *See* now Act 14 of 1882, as modified up to 1st December, 1899.

[2] *See* now Act 5 of 1898, as modified up to 1st April, 1903.

[3] Local Government (?) *Cf.* s. 9 of the Sindh Courts Amendment Act, 1906 (Bom. Act 1 of 1906), Vol. IV of this Code.

[4] The words "Government of India" were substituted for the words "Governor General of India in Council" by s. 9 of the Sindh Courts Amendment Act, 1906 (Bom. Act 1 of 1906), Vol. IV of this Code.

[5] *See* Bombay Local Rules and Orders, Ed. 1898, Vol. II, p. 489.

[6] The words "Court of the Judicial Commissioner" were substituted for the words "Sadr Court" by s. 9 (*2*) of the Sindh Courts Amendment Act, 1906 (Bom. Act 1 of 1906), Vol. IV of this Code.

[7] Vol. IV of this Code.

Suspension and removal of subordinate Judges.

[1]**9.** (*1*) It shall be competent to the Commissioner in Sindh to suspend or to remove from office for misbehaviour or neglect of duty any Judge of a subordinate Court.

(*2*) It shall be competent to the Court of the Judicial Commissioner to suspend from office any Judge of a subordinate Court pending enquiry into his conduct.

(*3*) Any District Judge may, whenever he sees urgent necessity for so doing, suspend from office any subordinate Judge under his control. But whenever the District Judge suspends any such subordinate Judge, he shall forthwith report the case to the Court of the Judicial Commissioner.

Rules.

[2]**9A.** In addition to any other powers to make rules expressly or by implication conferred by this or any other Act, the Court of the Judicial Commissioner may, with the sanction of the Local Government, from time to time, make rules consistent with this Act and any other enactment for the time being in force—

(*a*) for the exercise by one or more of the Judges of the said Court o the original and appellate jurisdiction vested in such Court :

Provided that all appellate or revisional jurisdiction other than that of a District or Sessions Court shall be exercised by a Bench of not less than two Judges ;

(*b*) for the distribution of the civil and criminal business of the said Court ; and

(*c*) for the determination of the holidays and vacations of the said Court.

Disposal of civil appeals.

XIV of 1882.

[2]**9B.** Section 575 of the Code of Civil Procedure shall not apply to the Court of the Judicial Commissioner. In that Court where any appeal is heard by a Bench of two or more Judges the appeal shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges.

Where there is no such majority which concurs in a judgment varying or reversing the decree appealed against, such decree shall be affirmed :

Provided that where the Bench hearing the appeal is composed of two Judges and the Judges composing the Bench differ in opinion as to the

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[1] Substituted for the original section by the Sindh Courts Amendment Act, 1906 (Bom. Act 1 of 1906), Vol. IV of this Code. The original section was as follows :—

"It shall be competent to the Sadr Court to suspend or to remove from office, for misbehaviour or neglect of duty, any Judge of a Subordinate Court."

[2] Ss. 9A to 9E were inserted by s. 6 of the Sindh Courts Amendment Act, 1906 (Bom. Act 1 of 1906), Vol. IV of this Code.

decision then the appeal may, in the discretion of the Judicial Commissioner, be either referred to a third Judge or re-heard by a Bench of at least three Judges; where the appeal is so referred or re-heard, it shall be decided according to the opinion of the majority (if any) of the Judges who have heard it, or, where there is no such majority which concurs in a judgment varying or reversing the decree appealed against, such decree shall be affirmed.

Disposal of criminal appeals.

[1] **9C.** Sections 378 and 429 of the [2] Code of Criminal Procedure, 1898, shall not apply to the Court of the Judicial Commissioner. In that Court in a criminal matter where any appeal or any case submitted under section 374 of the [2] Code of Criminal Procedure, 1898, is heard by a Bench of two Judges the appeal or case shall be decided in accordance with the opinion of such Judges, but where they differ the appeal or case shall, in the discretion of the Judicial Commissioner, be either referred to a third Judge and decided according to his opinion or re-heard by a Bench consisting of three Judges and decided according to the opinion of the majority of such Judges. V of 1898. V of 1898.

When Judge of Judicial Commissioner's Court may try appeals against orders passed by himself.

[1] **9D.** A Judge of the Court of the Judicial Commissioner shall, when sitting in a Bench of three or more Judges of that Court as provided in section 9B or section 9C, but not otherwise, be competent to try any appeal against a judgment, decree or order passed by himself whether in a civil or criminal matter and to adjudicate upon any proceeding connected with, or arising out of, such judgment, decree or order, notwithstanding, anything contained in section 556 of the [2] Code of Criminal Procedure, 1898. V of 1898.

Recording evidence of Judicial Commissioner's Court.

[1] **9E.** The Court of the Judicial Commissioner shall record evidence in such manner as it, by rule, with the sanction of the Local Government, from time to time directs. Section 182 of the [3] Code of Civil Procedure and section 356 of the [2] Code of Criminal Procedure, 1898, shall not apply to any proceedings in such Court after such rule has been sanctioned. XIV of 1882. V of 1898.

Appointment and removal of Court officials.

10. It shall be lawful for the Judicial Commissioner to appoint to the Court of the Judicial Commissioner and to the subordinate Courts of the district of Karachi, and for the Judge of a District Court of any other district, to appoint to such Court, and to the Subordinate Courts of that district, so

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[1] *See* second footnote on page 461, *supra*.
[2] *See* the reprint as modified up to 1st April, 1903.
[3] *See* the reprint as modified up to 1st December, 1899.
[4] Section 10 was substituted by the Sindh Courts Amendment Act, 1906 (Bom. Act 1 of 1906), Vol. IV of this Code. The original section was as follows:—
"It shall be lawful for the Judge of the Sadr Court to appoint to such Court, and for the Judge of a District Court to appoint to such Court and to the subordinate Courts of that District, so many and such officers as the Governor of Bombay in Council, acting under the general control of the Governor General of India in Council, shall from time to time direct, and, for misbehaviour or neglect of duty, to suspend or remove any such officer; provided that no officer who is in receipt of a monthly salary amounting to thirty rupees shall be removed without the sanction of the Sadr Court; and provided also that all bailiffs, messengers, peons and ministerial servants of a subordinate Court, who receive a monthly salary not exceeding ten rupees, shall be appointed by the Judge of such Court, by whom also they may be suspended or removed."

many and such officers as the Local Government, acting under the general control of the Government of India, shall from time to time direct, and, for misbehaviour or neglect of duty, to suspend or remove any such officer:

Provided that no officer who is in receipt of a monthly salary amounting to thirty rupees shall be removed without the sanction of the Judicial Commissioner: and

Provided also that all messengers, peons and ministerial servants of a subordinate Court may be appointed by the Judge of such Court, and that all ailiffs, messengers, peons, and ministerial servants of a subordinate Court may be suspended or removed by the Judge of such Court, subject to appeal to the Judicial Commissioner in the case of the district of Karachi and to the Judge of the District Court in the case of any other district.

Seal.

11. Every Court shall use a seal on which shall be engraved the title of such Court.

Certain laws extended to Sindh.

12. The provisions of [1]Regulation VIII of 1827 of the Bombay Code (*A Regulation to provide for the formal recognition of heirs, executors and administrators, and for the appointment of administrators and managers of property by the Courts*), and of [2] Act XIX of 1841 (*An Act for the protection of moveable and immoveable property against wrongful possession in cases of successions*), [3]* * * * * are hereby extended to the Province of Sindh.

13, 14. [*Affidavits and affirmations.*] *Rep. Act XVI of 1895.*

Execution of decrees for debt against certain privileged persons.

15. No decree for payment of debt passed by any Court shall be executed against a defendant who is one of the persons mentioned in the schedule [4] * * except in such manner as shall be directed in a special order by the Commissioner in Sindh, to whom a copy of the decree and of the application for execution shall be forwarded by the Court in which such application is presented.

Control.

[5]**15A.** (*1*) The Court of the Judicial Commissioner shall have general control over all Courts which may be subject to its appellate jurisdiction, and may, with the sanction of the Local Government, make rules for the

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[1] Vol. I of this Code, p. 6.

[2] General Acts, Vol. I, p. 34.

[3] The words and figures "and so much as is now unrepealed of Act V of 1840 (*An Act concerning the Oaths and Declarations of Hindoos and Mahomedans*)" were repealed by the Repealing Act, 1873 (12 of 1873).

[4] The words "annexed to this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904, (Bom. Act 1 of 1904), Vol. IV of this Code.

[5] Inserted by s. 8 of the Sindh Courts Amendment Act, 1906 (Bom. Act 1 of 1906), Vol. IV of this Code.

supervision of the working of such Courts and for their visitation and inspection.

(*2*) The Court of the Judicial Commissioner may, with similar sanction make rules for the due exercise by the District Judges of the general control vested in them over all Civil Courts within their respective districts and for the visitation and inspection of such Courts by the District Judges or their assistants.

Power to make rules for admission and removal of pleaders; to remove and suspend them.

16. It shall be competent to the [1][Court of the Judicial Commissioner] with the sanction of the [2] Governor of Bombay in Council, to make [3] rules for the qualification and admission of proper persons to be pleaders in any Court in the Province of Sindh;

and it shall also be competent to the [1][Court of the Judicial Commissioner] to remove or to suspend from practice, for misbehaviour, any person so admitted to be a pleader.

Publication of rules.

The rules made and sanctioned under this section shall be published in the Government Gazette.

Sadr Court to prescribe fees.

17. The [1][Court of the Judicial Commissioner] shall from time to time prescribe and regulate the fees to be taken for any process issued by any Court the constitution of which is declared by this Act, or by any officer of any such Court, and also the fees which shall be payable in any suit or proceeding in any such Court by any party to such suit or proceeding in respect of the fees of the pleader of any other party to such suit or proceeding.

Publication of table of fees.

Tables [3] of the fees so prescribed shall be published in the Government Gazette.

18 to 20.—[*Validation and indemnification; cessation of jurisdiction.*] *Rep. Act XII of 1873.*

Certain places excepted from operation of Act.

21. Nothing contained in this Act shall be construed to apply to that portion of the Province of Sindh which is now in charge of the Political Superintendent of Thar and Parkar; but all existing rules for the administration of justice in that portion of the said Province shall continue in force in the same manner as if this Act had not been passed:

Extension

[4] Provided that the Local Government may, by an order to be published

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[1] The words "Court of the Judicial Commissioner" were substituted for the words "Sadr Court" by s. 9 (*2*) of the Sindh Courts Amendment Act, 1906 (Bom. Act 1 of 1906), Vol. IV of this Code.

[2] Local Government (?) *Cf.* s. 9 of the Sindh Courts Amendment Act, 1906 (Bom. Act 1 of 1906), Vol. IV of this Code.

[3] *See* Bombay Local Rules and Orders, Ed. 1898, Vol. II, pp. liii and liv.

[4] This proviso was substituted by s. 10 of the Sindh Courts Amendment Act, 1906 (Bom. Act 1 of 1906), Vol. IV of this Code. The original proviso was as follows:—

"Provided that all or any of the provisions of this Act may, by an order of the Governor of Bombay in Council, to be published in the Government Gazette, be extended to the whole or to any part of the said portion of the Province of Sindh."

in the *Bombay Government Gazette*, alter or rescind any such rules or [1]extend all or any of the provisions of the Act to the whole or to any part of the said portion of the Province of Sindh. of Act to such places.

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[2]SCHEDULE.

(*Referred to in section 15.*)

1. His Highness Mír Hussain Alí Khán.
2. His Highness Mír Hassan Alí Khán.
3. His Highness Mír Sher Muhammad Khán.
4. His Highness Mír Imám Baksh Khán.
5. His Highness Mír Alí Madád Khán.
6. His Highness Mír Muhammad Khán.
7. His Highness Mír Shah Nawáz Khán.
8. His Highness Mír Abdul Hussain Khán.
9. His Highness Mír Shah Muhammad Khán.
10. His Highness Mír Khán Muhammad Khán.
11. Widow of H. H. Mír Núr Muhammad Khán, daughter of H. H. Mír Fateh Alí Khán.
12. Widow (second wife) of H. H. Mír Mír Muhammad Khán, daughter of H. H. Mír Fateh Alí Khán.
13. Wife of H. H. Mír Hussain Alí Khán, daughter of H. H. Mír Nasír Khán.
14. Wife of H. H. Mír Hassan Alí Khán, daughter of H. H. Mír Núr Muhammad Khán.
15. Wife of H. H. Mír Muhammad Khán, daughter of H. H. Mír Sobdár Khán.
16. Daughter of H. H. Mír Murád Alí Khán.
17. Widow of Mír Abdula Khán, daughter of H. H. Mír Núr Muhammad Khán.

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[1] *See* Bombay Local Rules and Orders, Ed. 1898, Vol. II, pp. LIII and LIV.

[2] This schedule was substituted for the original schedule by Bom. Act 3 of 1868, s. 1, *infra*, p. 49. For power to amend the schedule by notification, *see* s. 2 of that Act, *infra*, p. 493.

The following persons were mentioned in the original schedule:

(1) His Highness Meer Hussein Alí Khán.
(2) His Highness Meer Hassan Alí Khán.
(3) His Highness Meer Abdool Hussein.
(4) His Highness Meer Mahomed Khán.
(5) His Highness Meer Shah Nawáz.
(6) His Highness Meer Mahomed Hassan.
(7) His Highness Meer Shere Mahomed.
(8) His Highness Meer Shah Mahomed.
(9) His Highness Meer Khán Mahomed.

18. Widow (third wife) of H. H. Mír Murád Alí Khán, daughter of Mubárak Khán Bhurgarí.
19. Widow (second wife) of H. H. Mír Núr Muhammad Khán, daughter of Malik Sobdár Numriya.
20. Widow (third wife) of H. H. Mír Kuram Alí Khán, daughter of Malik Ahmad Khán Numriya.
21. Mír Walimahomed Khán.[1]
22. Mír Ghulam Hyder Khán *valad* Mír Mahomed Khán.[2]
23. Mír Najaf Alí Khán *valad* Mír Alí Akbar Khán, Talpur.[3]
24. Mír Rustom Khán II, son of H. H. Mír Imámbux Khán, Talpur.[3]
25. Bibi Hawa, widow of H. H. Mír Shah Nawáz Khán.[4]
26. Bibi Sami, eldest daughter of H. H. Mír Shah Nawáz Khán.[4]
27. Bibi Dhayani, third daughter of H. H. Mír Shah Nawáz Khan.[4]
28. Mír Ghulam Alí Khán, the eldest son of Mír Ghulam Shah Khán.[4]
29. Ghulam Shah Khán.[4]
30. Mír Fazal Hussain Khán, son of Mír Sohab Khán, the second son of H. H. Mír Muhammad Hussain Khán.[4]
31. Bibi Chanan, the senior widow of Mír Alí Hyder Khán, the grandson of H. H. the late Mír Mubárak Khán.[4]

BOMBAY ACT No. XIII OF 1866.[5]

[*15th November, 1866.*]

An Act to provide for the Attendance and Examination of Witnesses before the Council of the Governor of Bombay assembled for the purpose of making Laws and Regulations.

Preamble. WHEREAS it is expedient to make provision for the attendance of witnesses before the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations and for the examination of such witnesses; It is enacted as follows:—

Governor may 1. It shall be lawful for the Governor of Bombay, by a summons under

[1] This name was added by Notification under the powers conferred by s. 2, Bom. Act 3 of 1868, *infra*, p. 49, *see* Bombay Government Gazette, 1895, Pt. I, p. 635.
[2] *Ibid*, 1896, Pt. I, pp. 355 and 1334.
[3] *Ibid*, 1897, Pt. I, p. 1885.
[4] *Ibid*, 1898, Pt. I, p. 644, and *ibid*, 1899, pp. 72 and 355, respectively.
[5] For Statement of Objects and Reasons, *see* Bombay Government Gazette, Supplement, 1866, p. 388, and for Proceedings in Council, *see ibid*, pp. 400, 409 and 415.
Bom. Act 13 of 1866 has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, p. 467, to be in force in the Province of Sindh, *see* Appendix to Vol. I of this Code, p. 331.

the hand of the Secretary, to require the attendance before the Council of the Governor of Bombay assembled for the purpose of making Laws and Regulations, at a time and place to be mentioned in such summons, of any person residing or being within the Presidency of Bombay, whose evidence shall, in the judgment of the said Council, be material with reference to any measure, Bill or Act then under consideration by the said Council, and by such summons to require the person so summoned to produce before the said Council all such books, deeds, writings and documents as to the said Council shall appear necessary for obtaining information as to the matter so under consideration ; by summons require person to appear before Council.

and every person so summoned shall, according to the exigency of the summons, attend before the said Council and produce such books, deeds, writings and documents as shall be in his possession, power or control.

2. It shall be lawful for the said Secretary or any other officer appointed in that behalf by the Governor of Bombay to administer an oath [1] * * in such form as to the said Council shall seem fit, to any person appearing in obedience to such summons as aforesaid ; and the person to whom such oath [1] * * shall be administered shall be bound to state the truth. But nothing herein contained shall prevent such person from giving evidence without oath [1] * * if the said Council shall think it expedient that the evidence should be so given. Administration of oath.

3. If any person upon whom any such summons shall be served by the delivery thereof to him, or leaving thereof at his usual or last known place of abode, shall, without such cause as may be deemed reasonable by the said Governor of Bombay, fail to appear before the said Council at the time and place mentioned in the summons, or shall refuse to make oath [1] * * as required, or shall not make answer to such questions as shall be put to him touching the matter under consideration as aforesaid, or shall refuse or fail, without such cause as may be deemed reasonable by the said Governor of Bombay, to produce to the said Council any book, deed or writing in his possession, power or control as by the said Council he shall be required to produce (whether mentioned in the summons or not), the Governor of Bombay shall, on the report of the said Council that such failure or refusal has taken place, have the power by warrant under his hand to direct that such person be apprehended, and committed to and detained in close custody in a place and for a time specified in the warrant, until he shall comply to the Powers against persons failing to appear.

[1] The words "or affirmation" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

satisfaction of the said Council with such requisitions as have been made on him touching his examination.

The warrant shall specify the person or persons by whom such apprehension, committal and detention shall be made.

Expenses of witnesses.

4. Whenever a summons is issued for the attendance of a witness under this Act, such witness shall be entitled to receive from the Collector or Commissioner of the district or place in which the witness resides such expenses as he would have been entitled to receive if summoned as a witness before the principal Court of original civil jurisdiction within the local limits of which he shall be residing.

5.—[*Application of ss. 21 and 32 of Act II of 1855.*] *Rep. Act XII of 1876.*

Interpretation clause.

6. The word "Council" shall include any Select Committee of the Council of the Governor of Bombay assembled for the purpose of making Laws and Regulations under the provisions of the [1]Indian Councils Act, 1861 : 24 & 25 Vict. c. 67.

the word "Secretary" shall mean the Secretary to the Government of Bombay in the Legislative or Judicial Department, and shall include an Under-Secretary, Assistant Secretary and Deputy Secretary to the Government of Bombay.

BOMBAY ACT No. XIV OF 1866.[2]

[*7th December, 1866.*]

An Act to bring the parganas of Edulábád and Warangáon under the general Regulations and Acts of the Presidency of Bombay.

PREAMBLE. [*Rep. Act XII of 1876.*]

1.—[*Subjection of Parganas Edulábád and Warangáon to Regulations and Acts of Bombay Presidency.*] *Rep. Act XII of 1876.*

2.—[*Bar of jurisdiction of Civil Courts in certain cases.*] *Rep. Act X of 1876.*

Privileges and exemptions of certain persons of rank.

3. The privileges and exemptions provided in sections 3, 4 and 5, Regulation XXIX, A. D. 1827[3] (*A Regulation for bringing under the operation of the Regulations the Bombay territories in the Dekkhan and Khándesh*), and

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[1] Collection of Statutes relating to India, Vol. I, Ed. 1899, p. 341.

[2] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1866, Supplement, p. 414 and for Proceedings in Council, *see ibid*, pp. 430 & 443.

[3] Vol. I of this Code, p. 22.

section 5 of [1]Regulation VII, A. D. 1830 (*A Regulation for bringing under the operation of the Regulations the territories comprised in the Southern Marátha Country, belonging to the Honourable Company, and forming the said territories into a zila*), and

[1]Regulation I, A. D. 1831 (*A Regulation for extending the jurisdiction of the Agent of Government, acting under the provisions of section 4, Regulation XXIX of 1827*[1], *over suits in which persons of rank of the privileged classes are concerned, and which are now cognizable by the Collectors of land revenue*), *and*

[1]Regulation XVI, A. D. 1831 (*A Regulation for extending the jurisdiction vested in the Political Agent in the Southern Marátha Country, under the provisions of section 5, Regulation VII, A.D. 1830*[1], *to the cognizance of civil suits of the nature specified in* [1]*Regulation I, A. D. 1831, and also for the better defining the extent of jurisdiction therein conferred with respect to persons of the privileged classes*) [2] * * * * * * *

are applicable in districts now brought under the Regulations and Acts to the persons of rank therein referred to, in the same manner as they are in the rest of Khándesh and the Dekkhan.

4. [*Validation and indemnification.*] *Rep. Act XII of 1876.*

BOMBAY ACT No. VI OF 1867.

CONTENTS.

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5. Magistrate, on certificate of medical officer, to make requisition as in section 3.
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[1] Vol. I of this Code, pp. 30, 42, 22 and 43, respectively.

[2] The words and figures "as amended by s. vi, Act XIII of 1842 (*an Act to enable the holders of revenue which has been alienated to them by the State to collect that revenue within the Presidency of Bombay,*" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

SECTIONS.

6. Master of vessel to give notice of person suffering on board from infectious disease.
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9. Disinfection of vessels,
and recovery of expenses and penalties.
10. Detention by Superintendent of person brought into sanitarium until discharged.
11. Power to Government to make and publish rules.
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12. Power to determine what diseases are infectious.
13. Power to authorize any person to exercise powers of Health Officer.
14. Power to make special orders in special cases.
Penalty.
15. [*Repealed.*]
SCHEDULE A.
SCHEDULE B.

BOMBAY ACT No. VI OF 1867.[1]

[*28th December, 1867.*]

An Act for the better sanitary regulation of the city of Bombay.

Preamble. WHEREAS it is expedient to take measures to check the spread of infectious diseases dangerous to life in the city of Bombay, and especially with reference to vessels arriving at, or being within the limits of, the port of Bombay; It is enacted as follows:—

Establishment of sanitaria. **1.** It shall be lawful for Government, with a view of providing for the segregation of persons suffering from any infectious disease dangerous to life from time to time to establish, by[2] notification for the purposes hereinafter specified, one or more places to serve as sanitaria for the city of Bombay, and to notify the local limits of such sanitaria.

Appointment of establishment. And it shall be lawful for Government, acting under the general control of the Government of India, to appoint a superintendent of each sanitarium, with such establishment as may be necessary.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1866, Supplement, p. 386; for first Report of the Select Committee, *see ibid*, 1867, Pt. V, p. 31; for second Report of the Select Committee, *see ibid*, 1867, Pt. V, p. 74 and for Proceedings in Council, *see ibid*, 1866, Supplement, p. 392, and *ibid*, 1867, Pt. V, pp. 11, 40 and 96.

[2] *See* Bombay Local Rules and Orders, Ed. 1898, Vol. II, pp. 496 and 497.

Appointment of Health Officer of Port.

2. It shall be lawful for Government to appoint a Health Officer of the port for the purposes of this Act, and the Health Officer of the port shall be an assistant to, and subject to the general control of, the consulting officer of health.

Removal of persons suffering from infectious disease to sanitarium.

3. When it shall appear to the consulting officer of health, or in his absence to the Health Officer of the port, that any person in the city of Bombay, being in the public streets or thoroughfares, or in a place of public resort, such as dharmsalas, temple-enclosures and the like, and without proper lodging or accommodation, or being on board any vessel and without proper lodging or accommodation on shore, is suffering from an infectious disease dangerous to life, and that it is necessary for the safety of the public that he should be removed to a sanitarium,

either of the said officers of health may require such person to proceed to a sanitarium, and the person so required shall be bound to proceed or allow himself to be conveyed to that sanitarium, and shall be bound to remain there till one of the said officers of health certifies that he may go at large without danger to the public.

Penalty.

Any such person refusing or voluntarily neglecting to obey such requisition shall be liable to the penalties provided in section 269 of the [1]Indian Penal Code. XLV of 1860.

Removal by written order of person refusing to proceed to sanitarium.

4. If any such person shall refuse or voluntarily neglect to proceed to the sanitarium when duly required in the manner described in the last preceding section, the consulting officer of health, or in his absence the Health Officer of the port, may, by a written order in the form given in [2][Schedule A], direct that such person be conveyed to a sanitarium, and such written order, signed by one of the said officers of health, shall be sufficient warrant for the conveyance of such person to the sanitarium.

Magistrate on certificate of medical officer, to make requisition as in section 3.

[1]**5.** It shall be lawful for any Magistrate of Police, on the certificate of a covenanted medical officer of Government, or of any member or licentiate of any college of physicians or surgeons of the United Kingdom or of India, as to the nature of the disease, and on such evidence as may be thought by him sufficient in regard to the other conditions recited in section 3 * * *[3] to make requisition as in the said section, and any person refusing or voluntarily neglecting to obey such requisition shall be liable to the penalties provided in section 269 of the [1]Indian Penal Code. XLV of 1860.

Penalty.

[1] *See* the reprint as modified up to 1st April, 1903.

[2] The words "Schedule A" were substituted for the words "appended Schedule" by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

[3] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

Master of vessel to give notice of person suffering on board from infectious disease.

6. When the master or commander of any vessel, being within the limits of the port of Bombay, shall become aware that any person on board his vessel is suffering from any infectious disease dangerous to life, he shall immediately give notice to the Health Officer of the port, and, pending the orders of the Health Officer of the port, he shall either remove such person to a sanitarium, or take other suitable precautions to prevent the spread of the disease.

Penalty.

If the master or commander shall wilfully neglect to act as directed in this section, he shall be liable to the penalties provided in section 269 of the [1]Indian Penal Code. XLV of 1860.

Power to Health Officer to enter vessel and question master or commander.

7. It shall be lawful for the consulting officer of health or for the Health Officer of the port at any time to enter into and inspect any vessel being within the limits of the port of Bombay, and to question the master or commander regarding the sanitary condition of the vessel and of the persons on board, and the master or commander shall be bound truthfully to answer such questions.

Penalty.

And, if the master or commander shall wilfully give false information to either of the said officers, he shall be liable to the penalties provided in section 177 of the [1]Indian Penal Code; and, if he shall refuse to answer questions put to him, he shall be liable to the penalties provided in section 179 of the [1]Indian Penal Code. XLV of 1860.

Master or commander may be required to remove person suffering from infectious disease.

8. If it shall appear to the consulting officer of health or the Health Officer of the port that any person on board a vessel within the limits of the port of Bombay is suffering from any infectious disease dangerous to life, he may, [2][by an order in writing in the form given in Schedule B] require the master or commander of the vessel to remove such person, or any other person who shows premonitory symptoms of such disease, to a sanitarium or other place on shore where, in the opinion of the Health Officer, proper lodging and accommodation are available; and the master or commander shall be bound to obey such requisition and is hereby authorized and empowered to enforce such removal.

Penalty.

And, if the master or commander shall refuse or wilfully neglect to obey such requisition, he shall be liable to the penalties provided in section 269 of the [1]Indian Penal Code. XLV of 1860.

Disinfection of vessels,

9. When it shall appear to the Health Officer of the port that, owing to a person suffering from an infectious disease dangerous to life being on board

[1] *See* the reprint as modified up to 1st April, 1903.

[2] These words were inserted by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

or having recently been on board any vessel within the limits of the port of Bombay, it is expedient that measures should be taken for the disinfection of such vessel, the said Health Officer may, by an order in writing to the master or commander of such vessel, direct all or any part of the vessel to be forthwith fumigated or otherwise cleansed for sanitary purposes, in accordance with rules published on that behalf by Government under section 11[1] * * *;

and if the master or commander neglect to do so within the period fixed in the said order, provided such period be not less than twenty-four hours from the time when such order shall have been served upon him, the said Health Officer may cause the same to be done, and the expenses incurred shall be paid by the owner or the master on demand, and, if not so paid, shall be recovered in the manner provided in section 55 of [2]Act XXII of 1855 (*An Act for the regulation of Ports and Port Dues*) for the recovery of penalties imposed under that Act. and recovery of expenses and penalties.

10. It shall be lawful for the Superintendent of the sanitarium, and it shall be his duty, to detain in the sanitarium under his charge all persons who shall come or be brought to such sanitarium under sections 3, 4, 6, or 8, until they shall be discharged under a certificate to be granted under rules made by Government under section 11.[1] * * * Detention by Superintendent of person brought into sanitarium until discharged.

11. It shall be lawful for Government from time to time to make and publish [3]general rules for the proper management and discipline of sanitaria established under this Act, and for the disinfection or destruction of the personal property of persons suffering or who have recently suffered from any infectious disease dangerous to life, and for the disinfection and cleansing of vessels on board of which such persons are or recently have been, and from time to time to alter or repeal such rules. Power to Government to make and publish rules.

Any person who shall disobey such rules or any of them shall be liable to the penalties provided in section 271 of the [4]Indian Penal Code. Penalty

XLV of 1860.

12. It shall be lawful for Government from time to time to determine by [3]notification what diseases shall, for the purposes of this Act, be held to be infectious diseases dangerous to life. Power to determine what diseases are infectious.

13. It shall be lawful for Government, when necessary, to [3] authorize any one or more persons to exercise all or any of the powers conferred by this Act on the consulting officer of health or on the Health Officer of the port: Power to authorize any person to exercise powers of

[1] The words " of this Act " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] *See* now the same section of the Indian Ports Act, 1889 (10 of 1889), as modified up to 1st April, 1901.

[3] *See* Bombay Local Rules and Orders, Ed. 1868, Vol. II, pp. 496-499.

[4] *See* the reprint as modified up to 1st April, 1903.

Health Officer.

Provided that every such person shall be a covenanted medical officer of Government, or a member or licentiate of any college of physicians or surgeons of the United Kingdom or of India, and shall exercise these powers subject to the general control of the consulting officer of health.

Power to make special orders in special cases.

14. Whenever it shall appear to Government that, owing to the expected introduction of any infectious disease dangerous to life, or owing to other exceptional circumstances, the ordinary precautions authorized by this Act are insufficient to prevent the spread of such disease, it shall be lawful for Government, by notification, to make such orders, and from time to time to vary the same, as it shall deem expedient, for the enforcement of sanitary measures with respect to any vessel arriving at, or being within the limits of, the port of Bombay, or in regard to any persons on board any such vessel, or their personal property.

Penalty.

And any person disobeying such orders or any of them shall be liable to the penalties provided in section 271 of the [1]Indian Penal Code. XLV of 1860.

15. [*Interpretation.*] *Rep. Bom. Act III of 1886.*

SCHEDULE A.

To

WHEREAS *A. B.*, being a person without proper lodging or accommodation in the city of Bombay, is suffering from an infectious disease dangerous to life, and it is necessary for the safety of the public that he should be removed to a sanitarium; and whereas, having been required to proceed to such sanitarium, he has neglected to do so; you are hereby authorized, with such assistance as you may require, to convey him, under section 4 of Act VI of 1867, to , and this shall be your warrant for so conveying him.

Consulting Officer of Health, or Health Officer of the Port.

SCHEDULE B.

To

The Master or Commander of Vessel———————

(*Name.*)

WHEREAS *A. B.*, at present on board the vessel———————within the limits of the Port of Bombay, is suffering from an infectious disease dan-

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[1] *See* the reprint as modified up to 1st April, 1903.

gerous to life [*or* shows premonitory symptoms of a disease dangerous to life (*as the case may be*)], these are to require you to remove the said *A. B.* to [*here designate the sanitarium or other place on shore where, in the opinion of the consulting officer of health or Health Officer of the port, proper lodging and accommodation are available*], and, for enforcing the said removal, this shall be your sufficient warrant.

Consulting Officer of Health, or Health Officer of the Port.

THE BOMBAY DISTRICT POLICE ACT, 1867.

CONTENTS.

PREAMBLE.

SECTIONS.

1—32. [*Repealed.*]
33. Common nuisances.
34. Removal of prickly-pear or other nuisance from waste-land of town or village.
35—47. [*Repealed.*]

BOMBAY ACT No. VII OF 1867[1].

[*28th December, 1867.*]

An Act for the regulation of the District Police in the Presidency of Bombay.

WHEREAS it is expedient to establish regulations for the administration of the Police of the Presidency of Bombay; It is enacted as follows:— Preamble.

1—[*Rep. Bom. Act IV of 1890.*]

2—[*Rep. Act 12 of 1873.*]

3 to 32—[*Rep. Bom. Act IV of 1890.*]

[2]33. Any person Common nuisances.

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1867, Pt. V, p. 61 for Report of the Select Committee, *see ibid*, p. 78 and for Proceedings in Council, *see ibid*, pp. 92, 343 and 358.

The whole Act, save sections 33 and 34, has been repealed by the Bombay District Police Act, 1890 (Bom. Act 4 of 1890), Vol. III of this Code, and in Aden and Sindh by the notifications under which Bom. Act 4 of 1890 was respectively declared in force in Aden and extended to Sindh—*see* Appendix to Vol. I of this Code, pp. 363 and 342, respectively.

[2] During such time as Pt. II of the Bombay Village Sanitation Act, 1889 (Bom. Act 1 of 1889), and the rules made thereunder, are in force in any village, ss. 33 and 34 of Bom. Act 7 of 1867 cease to have any operation therein—*see* Bom. Act 1 of 1889, s. 3, in Vol. III of this Code. Except in such villages and the City of Bombay these sections are in force in the rest of the Presidency of Bombay, including Sindh.

who on any public thoroughfare, without the permission of a Magistrate or Municipal Commission, constructs any booth, shed, stable or the like, or lays down any stones or building material; or

who within the limits or site of any town or village, without sufficient cause, wilfully allows to accumulate any offensive matter in cesspools, dung-heaps or the like, so as to cause annoyance to the neighbouring residents or to passengers; or

who, without sufficient cause, wilfully allows any offensive matter to issue on to any public thoroughfare from any house, factory, stable, privy or the like; or

who deposits the bodies of dead animals, or refuse or filth of any description either in channels which in the rainy season feed any tank or reservoir set apart for drinking, or in other places where to deposit such is offensive to the community; or

who, in disregard of established rules or the order of a Magistrate, stacks or stores grass or other inflammable material within fifty yards of a dwelling-house, out-house or other building; or fails to remove the same when so stacked or stored; or

who disobeys the order of a Magistrate given in respect to land in or near towns, villages or dwelling-places, or in or near public roads and thoroughfares, for the pruning of hedges, or for the pruning or removal of overgrown prickly-pear or other vegetation, the unchecked growth of which is likely to be injurious to health,

shall be punishable for every such offence, on conviction before a Magistrate, to the extent of fifty rupees fine, or, in default of payment, to imprisonment not exceeding eight days:

Provided that no person shall be required to prune a hedge below three feet in height and three feet in width.

Removal of prickly-pear or other nuisance from waste-land of town or village.

[1] **34.** Whenever the removal of prickly-pear or other vegetation or of any nuisance, from the common or waste-land of any town or village shall, in the opinion of a [2][Magistrate of the first class], be necessary, it shall be lawful for the said Magistrate to order such removal by a general notice addressed to all persons having an interest in the said common land, and to the inhabitants of the town or village at large, which notice shall be affixed to the chaunri or other principal place of public resort: and if within a reasonable time, being not less than seven days, to be specified in the said notice,

[1] *See* second footnote on page 475, *supra*.

[2] These words were substituted for the words "Full-Power Magistrate" by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904) Vol. IV of this Code.

the order be not carried out, the Magistrate may cause the vegetation or nuisance to be removed, and on the requisition of the said Magistrate the cost of the removal shall be assessed and levied from the inhabitants in the manner provided in sections 16 and 17. * * *[1]

35 to 47—[*Rep. Bom. Act IV of 1890.*]

THE BOMBAY VILLAGE POLICE ACT, 1867.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Interpretation-clause.
2. [*Repealed.*]
3. Administration, control and direction of village-police in whom vested.
4. Power to depute to District Superintendent authority over village-police-officer.
5. Village-police in villages under charge of Police-patel.
   Appointment of Police-patel.
   Police-patels may be appointed for different divisions of town or place.
6. Duties of Police-patel.
7. Authority over village-servants.
8. Precautions against robbery, etc.
9. Penalties for neglect of duty, etc.

9A. Liability to criminal prosecution not affected.
   Power to suspend during trial.

10. Information to officer in charge of District Police-station when criminal in village has escaped or is not known.
11. Inquest in cases of unnatural or sudden death, or corpse found within village.
   Punishment for refusing or neglecting to serve on inquest.
   Corpse when forwarded to nearest Civil Surgeon, etc., for examination.
   When burning to be delayed till officer in charge of Police-station assents.
12. Police-patel to apprehend person he believes has committed serious offence.
   Person apprehended to be forwarded to Police-station.
13. Power to call and examine witnesses, record evidence, and search for concealed articles.
   Power to enter limits of other villages.
14. Power to try and punish for petty assault or abuse.

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

SECTIONS.

15. Commissioner of Police may authorize Magistrate to commission Police-patel to try certain offenders.
Power of patel to punish.
16. Power to prohibit and to punish for—
beating, etc., animal;
bathing, washing in, or defiling, well, etc.;
depositing dirt, etc.;
committing nuisance, etc.;
accumulating offensive matter in cess-pools, etc.;
allowing offensive matter to issue on thoroughfare;
depositing dead bodies so as to corrupt water for drinking.
17. Proceedings how taken under sections 14, 15 and 16.
18. Power to cancel commission issued under section 15.
19. Unclaimed property.
20. Prosecution under other Regulations, etc., for offence punishable by Act.
21. Provision in case of absence, sudden illness, etc., of Police-patel.
22. "District Police-station" defined.
23. [*Repealed.*]
24. Short title.

BOMBAY ACT No. VIII OF 1867 [1].

[*21st December, 1867.*]

An Act for the regulation of the Village-police in the Presidency of Bombay.

Preamble. WHEREAS it is expedient to provide for the regulation of the Village-police in the Presidency of Bombay; It is enacted as follows:—

Interpretation-clause. **1.** The terms [2] * * * * "District Superintendent" and "Assistant Superintendent of Police", "Police-officer" and District-police", when used in this Act, mean those constituted under the Bombay District Police [3] [Acts, 1867 and 1890]. Bom. VII of 1867 and IV of 1890.

2. [*Repeal of enactments.*] *Rep. Act XII of 1873.*

Administration, control and direction **3.** The administration of the Village-police throughout each district shall, under the control and direction of the Commissioner * * [4],

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1867, Pt. V, p. 66; for Report of the Select Committee, *see ibid*, p. 78 and for Proceedings in Council, *see ibid*, pp. 94 and 358.

As to the application of Bom. Act 8 of 1867 to Sindh, *see* the Sindh Village Officers Act, 1881 (Bom. Act 4 of 1881), s. 5, *infra*, p. 797.

[2] The words "Commissioner of Police" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), as amended by Bom. Act. 1 of 1891, s. 2 (*a*) (*i*). Both these Acts are now however themselves repealed; but see Schedule B to Bom. Act 3 of 1886, which is printed *infra* as an Appendix to the Bombay General Clauses Act, 1904.

[3] These words and figures were substituted for the word and figures "Act, 1867" by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), as amended by Bom. Act I of 1891, s. 2 (*a*) (*i*).

[4] The words "of Police" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

be exercised by the Magistrate of the district, who may, with the sanction of the Commissioner * *[1], delegate any portion thereof to any Magistrate with full powers having also revenue charge as an Assistant or Deputy Collector. of village-police, in whom vested.

4. It shall be lawful for the Magistrate of a district, with the sanction of the Commissioner * *[1], to depute to the District Superintendent of Police any authority which may be exercised by the Magistrate of a district for the purposes of police over any village police-officer. Power to depute to District Superintendent authority over village-police-officer.

5. *Clause 1.*—The village-police in each village shall be under the charge of such person as the Magistrate of the district shall, subject to the approval of the *[2] Commissioner, appoint in writing to be Police-patel, and unless the Commissioner * *[1], owing to the size of the village or other good cause, see fit to separate the appointments, the Magistrate of the district shall appoint the person conducting the duties of Revenue-patel to be Police-patel. Village-police in villages under charge of Police-patel.

Clause 2.—In making the appointment, the said Magistrate shall have due regard to the provisions * * * * * * *[3] in force for regulating the services of hereditary officers, so far as the same may be applicable; but, when the Revenue-patel is not appointed Police-patel, and more persons than one claim by reason of hereditary right to perform the duties, in rotation or otherwise, it shall be lawful for the Magistrate of the district to appoint the most fit from among their number. Appointment of Police-patel.

Clause 3.—In any town or place in which the duties cannot be efficiently performed by one Police-patel, the Magistrate of the district may, with the consent of the Commissioner * *[1], appoint a sufficient number of Police-patels for the different divisions of the town or place. Police-patels may be appointed for different divisions of town or place.

6. The Police-patel shall, subject to the orders of the Magistrate of the district, act under the orders of the Magistrate within whose local jurisdiction his village is situated, whom he shall furnish with any returns or information called for, and keep constantly informed as to the state of crime and all matters connected with the village-police, the health and general condition of the community in his village. Duties of Police-patel.

He shall also afford all Police-officers every assistance in his power when called upon by them for assistance in the performance of their duty.

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[1] The words "of Police" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The word "Police" was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

[3] The words and figures "of Act XI of 1843 (*an Act for regulating the service of Hereditary Officers under the Presidency of Bombay*), or other Acts" were repealed by the Repealing Act, 1876 (12 of 1876).

He shall further promptly obey and execute all orders and warrants issued to him by a Magistrate or Police-officer, shall collect and communicate to the District Police intelligence affecting the public peace, shall prevent within the limits of his village the commission of offences and public nuisances, and shall detect and bring offenders therein to justice.

Authority over village-servants.

7. The Police-patel shall have authority to require all village-servants, in whatever capacity ordinarily empolyed, to aid him in performing the duties entrusted to him; and it shall be the duty of the village-revenue-accountant, whether hereditary or stipendiary, to frame all written returns and proceedings for the Police-patel.

Precautions against robbery, etc.

8. The Police-patel shall dispose of the village-establishment so as to afford the utmost possible security against robbery, breach of the peace and acts injurious to the public and to the village-community, and shall report to the Magistrate to whose jurisdiction he is immediately subordinate all instances of misconduct or neglect committed by any member of the said establishment.

Penalties for neglect of duty, etc.

[1]9. Any Police-patel or member of a village-establishment liable to be called on for the performance of Police-duties who shall be careless or negligent in the discharge thereof, shall be liable to be fined under the order of any Magistrate of the first class to any amount not exceeding the fourth part of the annual emoluments of his office.

If he shall be accused of any violation of duty or breach of rule, or of other misconduct which shall seem to such Magistrate to require a heavier punishment, he may suspend him from office during inquiry into such accusation, and at the close of such inquiry, if the said Magistrate shall consider him guilty of misconduct meriting such punishment, he may suspend him from office for a further period not exceeding six months, or dismiss him: Provided that no person of the rank of patel shall be dismissed under this section without the

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[1] This section was substituted by the Bombay Village Police Act Amendment Act, 1876 (Bom. Act 1 of 1876), s. 2, *infra*, p. 549. The original section was as follows:—

"Any Police-patel or member of a Village Establishment liable to be called on for the performance of Police duties who shall be careless or negligent in the discharge thereof, shall be liable to be fined under the order of any Full Power Magistrate to any amount not exceeding his estimated average official emoluments for three months. If he shall be guilty of any violation of duty or breach of rule, or of other misconduct or offence requiring a heavier punishment, he may be dismissed by the said Magistrate, or he may be proceeded against and punished as a public servant under the provisions of the Indian Penal Code, and in case of conviction he will be liable also to dismissal. Provided that in no case shall a person of the rank of Patel be dismissed under this section without the sanction of the Police Commissioner."

sanction of the *[1] Commissioner, [2][or, if he is an officiator under the provisions of the [3] Bombay Hereditary Offices Act, of Government].

Bom. Act III of 1874.

Liability to criminal prosecution not affected.

[4]**9A.** Nothing in the last preceding section shall affect the liability of any Police-patel or other member of a village-establishment to a criminal prosecution for any offence with which he may be charged.

Power to suspend during trial.

Any Magistrate of the first class may suspend any person subjected to any such prosecution pending the inquiry and trial.

Information to officer in charge of District Police-station when criminal in village has escaped or is not known.

10. If a crime shall have been committed within the limits of the village, and the perpetrator of the crime has escaped or is not known, the Police-patel shall forward immediate information to the Police-officer in charge of the District Police-station within the limits of which his village is situated, and shall himself proceed to investigate the matter, obtaining all procurable evidence relating to it, which he shall forward to the said officer.

Inquest in cases of unnatural or sudden death, or corpse found within village.

11. *Clause 1.*—If any unnatural or sudden death occur, or any corpse be found, within the bounds of any village, the Police-patel shall forthwith assemble an inquest, to be composed of two or more intelligent persons belonging to the village or neighbourhood, who shall investigate the causes of death and all the circumstances of the case, and make a written report of the same, which the Police-patel shall cause to be forthwith delivered to the Police-officer in charge of the District Police-station within the limits of which the village is situated.

Punishment for refusing or neglecting to serve on inquest.

Clause 2.—Any person who, on being called upon by the Police-patel to serve as a member of such inquest, shall without justifiable cause refuse or neglect to do so, shall be liable, on conviction before a Magistrate, to punishment not exceeding fifty rupees fine, or, in default of payment, to imprisonment for one month.

Corpse when forwarded to nearest Civil Surgeon, etc., for examination.

Clause 3.—If the results of the inquest afford reason for supposing that death has been unlawfully occasioned, the Police-patel shall give immediate notice to the officer in charge of the District Police-station within the limits of which his village is situated, and, if the corpse can be forwarded without the risk of putrefaction by the way, shall at once forward it to the nearest Civil Surgeon or other medical officer appointed by Government to examine corpses under such circumstances, who shall endeavour to ascertain the cause of death.

[1] The word "Police" was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 1904), Vol. IV of this Code.

[2] These words were added by the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), Vol. IV of this Code,.

[3] *Infra*, p. 521.

[4] S. 9A was inserted by the Bombay Village Police Act Amendment Act, 1876 (Bom. Act 1 of 1876), s. 3, *infra*, p. 549.

When burning to be delayed till officer in charge of Police-station assents.

Should the Police-patel be unable to forward the corpse without the risk of putrefaction rendering examination useless or dangerous, he shall nevertheless prevent the burning or burying of such corpse until the Police-officer in charge of the District Police-station within the limits of which his village is situated, or one of his subordinates deputed by him or a Magistrate, shall have assented thereto.

Police-patel to apprehend person he believes has committed serious offence.

12. *Clause 1.*—The Police-patel shall apprehend any person within the limits of his village who he may have reason to believe has committed any serious offence, and shall forward such person, together with all articles likely to be useful as evidence, to the Police-officer in charge of the Police-station within the limits of which his village is situated.

Person apprehended to be forwarded to Police-station.

Clause 2.—Every person so apprehended shall be forwarded within twenty-four hours to the District Police-station within the limits of which the village is situated.

Power to call and examine witnesses, record evidence, and search for concealed articles.

13. *Clause 1.*—The Police-patel, in making any inquiry coming within the scope of his duty, not being a case in which it is competent for him to inflict punishment, shall have authority to call and examine witnesses, and record their evidence on solemn affirmation, and to search for concealed articles, taking care that no search be made in a dwelling-house between sunset and sunrise without urgent occasion.

Power to enter limits of other villages.

Clause 2.—He shall also have authority, in carrying out any search or any pursuit of supposed criminals, to enter and act within the limits of other villages, being bound however to give immediate information to the Police-patel thereof, who shall afford him all the assistance in his power, and be immediately responsible for continuing the search and pursuit.

Power to try and punish for petty assault or abuse.

14. The Police-patel shall have authority to try and, on conviction, to punish with confinement in the village-chaunri, for a period not exceeding twenty-four hours, any person charged with committing within the limits of the village petty assault or abuse:

Provided the charge be laid within eight days of the offence having been committed.

Commissioner of Police may authorize Magistrate to commission Police-patel

15. *Clause 1.*—It shall be lawful for a Commissioner * *[1] by an order in writing to authorize any Magistrate of a district to issue a commission to any person exercising the office of a Police-patel, empowering such Police-patel to try any person charged with any of the following offences com-

[1] The words "of Police" were repealed by the Bombay General Clauses Act, 1886 (Bom Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

mitted within the limits of the village in which he is Police-patel, that is to say :— to try certain offenders.

mischief or petty theft, when the estimated value of the property stolen, or of damages sustained, does not exceed two rupees ;

resistance or refusal to obey a lawful order issued by such Police-patel personally.

Clause 2.—And it shall be lawful for a Police-patel so empowered to sentence any person convicted before him of any of the above acts to punishment by fine not exceeding rupees five, or confinement in the village-chaunri for a period not exceeding forty-eight hours, the confinement, in cases of resistance or refusal to obey a lawful order, to be awardable only on a failure to pay a fine. Power of patel to punish.

[1]**16.** The Police-patel, when and as long as he shall be empowered under section 15, clause 1, shall also have authority to punish by a fine not exceeding one rupee, or, in default of payment, by confinement in the village-chaunri for a period not exceeding twelve hours, any person committing any of the nuisances or disorderly acts below described, and to forbid the continuance or repetition of such nuisances or acts, that is to say :— Power to prohibit, and to punish for—

1. any person who wantonly or cruelly beats, ill-uses or tortures any animal : beating, etc., animal ;
2. any person who bathes or washes in, or otherwise defiles or causes to be defiled, any public well, tank or reservoir, so as to render it less fit for any purpose for which it is set apart : bathing, washing in, or defiling, well, etc. ;
3. any person who deposits in forbidden places any dirt, filth or rubbish : depositing dirt, etc. ;
4. any person who, on any public street, passage or thoroughfare, commits nuisance by easing himself, or who is, from intoxication, riotous, disorderly or incapable of taking care of himself : committing nuisance, etc. ;
5. any person

who without sufficient cause wilfully allows to accumulate any offensive matter in cess-pools, dung-heaps or the like, so as to cause annoyance to the neighbouring residents or to passengers, or accumulating offensive matter in cess-pools, etc. ;

who without sufficient cause wilfully allows any offensive matter to issue on to any public thoroughfare from any house, factory, stable, privy or the like, or allowing offensive matter to issue on thoroughfare ;

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1 During such time as Part II or Part III of the Bombay Village Sanitation Act, 1889 (Bom. Act 1 of 1889), and the rules made thereunder, are in force in any village, cls. 2, 3 and 4 (except the first two and the last thirteen words), and cl. 5 of s. 16 of Bom. Act VIII of 1867 cease to have any operation therein, *see* Bom. Act 1 of 1889, s. 3, Vol. III of this Code.

depositing dead bodies so as to corrupt water for drinking.

who deposits the bodies of dead animals, or refuse or filth of any description, either in channels which in the rainy season feed any tank or reservoir set apart for drinking, or in other places where to deposit such is offensive to the community.

Proceedings how taken under sections 14, 15 and 16.

17. The proceedings under sections 14, 15 and 16 shall be oral and held in presence of the parties, and it shall be optional with the complainant to withdraw his complaint at any time before conviction is recorded.

The Police-patel shall record the names of the parties, the finding, sentence or order, or the withdrawal of the charge, with the date of proceedings and shall forward the same to the Magistrate to whom he is immediately subordinate, in such form and through such channel, and at such times, as the Magistrate of the district shall prescribe.

Power to cancel commission issued under section 15.

18. It shall be lawful for the Magistrate of a district, with the sanction of the Commissioner [1] * * by an order in writing, to cancel either in whole or in part any commission issued under section 15 [1] * * *.

Unclaimed property.

19. The Police-patel shall take charge of all unclaimed property found within his village, or made over to him under the provisions of the [2] Bombay District Police Act of 1867, and shall forthwith make a report to the [3] Magistrate to whom he is subordinate, and act thereafter as he may be directed by the said Magistrate, unless the property be of a description coming within the provisions of [4] Act III of 1857 (*an Act relating to trespasses by cattle*) in which case the Police-patel shall be guided by that enactment. VII of 1867.

Prosecution under other Regulations, etc., for offence punishable by Act.

20. Nothing contained in this Act shall be construed to prevent the prosecution of any person under any other Regulation or Act for any offence made punishable by this Act, or from being liable under any other Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act :

Provided that no person shall be punished twice for the same offence.

Provision in case of absence, sudden illness, etc., of Police-patel.

21. In case of the Police-patel being unable to attend to his duty, owing to urgent absence from the village, sudden illness or other cause, he shall place a competent kinsman, or failing a competent kinsman some other competent person, in charge of his office, making an immediate report to the Magistrate to whom he is immediately subordinate ; and the person so placed

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[1] The words " of Police " and " of this Act " in s. 18 were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] *Supra*, p. 475.

[3] As to duty of Magistrate in certain cases, *see* the Bombay District Police Act, 1890 (Bom. Act 4 of 1890), s. 58, in Vol. III of this Code.

[4] *See* now the Cattle Trespass Act, 1871, as modified up to 1st May, 1906.

in charge shall, until the receipt of instructions to the contrary, continue to act for the Police-patel in all his duties except those which involve the trial and punishment of offenders.

"District Police-station" defined.

22. The term "District Police-station" in this Act shall include the villages or places within the limits of the charge of a Police-officer in charge of a station.

23. [*Application of Act to Sindh.*] *Rep. Act XII of 1876.*

Short title.

24. This Act may be cited as the Bombay Village Police Act, 1867.

THE BOMBAY FERRIES ACT, 1868.

CONTENTS.

PREAMBLE.

SECTIONS.

1. [*Repealed.*]
2. Government may constitute public ferries, establish new and discontinue existing ferries.
3. Rates of toll.
   Exemption from toll.
4. Appointment and salaries of toll-keepers, etc.
5. Government may lease public ferries by public auction or private contract.
6. Acts of servant of contractor.
7. Table of tolls to be hung up.
8. Penalty in respect to table of tolls.
9. Penalty for taking unlawful toll.
10. Penalty for wilful delay.
11. Penalty for refusal or evasion of toll, and for obstruction or damage.
12. Officers who may make rules for regulation of public ferries.
13. Penalty for conveying passengers or goods without license at Bombay.
    Proviso.
14. Penalty for carrying passengers, etc., within three miles of public ferry.
14A. Penalty for conveying animal, etc., across creek or ferry near toll-bridge;
    for conveying passengers, etc., near such bridge.
15. Trial of offences in Bombay:
    in places out of city.
    Recovery of fines.
16. Application of proceeds of tolls, farms and penalties.
17. Government may delegate powers.
18. Short title.

BOMBAY ACT No. II OF 1868.[1]

[*17th December, 1868.*]

An Act to amend the law relating to public ferries in the Presidency of Bombay.

Preamble.

WHEREAS it is expedient to amend the law relating to public ferries in the Presidency of Bombay; It is enacted as follows :—

1.—[*Repeal.*] *Rep. Act XII of 1873.*

Government may constitute public ferries, establish new and discontinue existing ferries.

2. It shall be lawful for Government to declare by [2] notification what ferries within the Presidency of Bombay shall be deemed public ferries, and also, by [2] notification from time to time, to establish any new public ferry or discontinue any existing public ferry.

Rates of toll.

3. Tolls according to such [3] rates as shall from time to time be approved by Government, shall be levied upon all passengers, carts, carriages, cattle and other animals, and on all goods and merchandise, carried over any public ferry:

Exemption from toll.

Provided always that no tolls shall be levied from—

[4] (*a*)* * * *

(*b*) any Police-officer in uniform on duty:

(*c*) any person in the custody of the Police:

[5](*d*) any person whom the Governor in Council shall, by notification in the Bombay Government Gazette, deem fit specially to exempt from payment of such tolls.

Appointment and salaries of toll-keepers, etc.

4. It shall be lawful for Government to provide for the appointment of toll-keepers, ferrymen and other servants for the management and conduct of any public ferry; and the salaries of such persons shall be defrayed from funds raised under this Act, or from other sources of local revenue, but not

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1868, Pt. V, p. 425; for Report of the Select Committee, *see ibid*, p. 448 and for Proceedings in Council, *see ibid*, pp. 457, 476 and 582.

Bom. Act 2 of 1868 (as amended by Bom. Act 2 of 1878, *infra*, p. 580) has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874) General Acts, Vol. II, p. 467, to be in force in the Province of Sindh, *see* Appendix to Vol. I of this Code, p. 332.

The net proceeds of public ferries established under Bom. Act 2 of 1868, and all penalties inflicted and levied under the Act are to be credited to the Local Fund constituted by the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884), *see* s. 44 of that Act, *infra*, p. 847.

[2] *See* Bombay Local Rules and Orders, Ed. 1898, Vol. II, p. lv *et seq.*

[3] *See* Bombay Local Rules and Orders, Ed. 1898, Vol. II, p. 501 *et seq.*

[4] Clause (*a*) [as to soldiers in uniform on duty] was repealed by s. 3 of the Indian Tolls (Army) Act, 1901 (2 of 1901), General Acts, Ed. 1904, Vol. VII, p. 142.

[5] Clause (*d*) was added by the Ferries (Amendment) Act, 1878 (Bom. Act 2 of 1878), s. 1, *infra*, p. 580.

from the general or imperial revenues, except with the sanction of the Governor General in Council.

Government may lease public ferries by public auction or private contract.

5. It shall be lawful for Government to lease any public ferry by public auction or private contract, from year to year, or for any longer period not exceeding seven years, on such [1] conditions as Government deems advisable, in which case a contract setting forth the conditions on which the ferry is to be held shall be executed by the contractor or farmer, and security shall be given by him for its due fulfilment, and any pecuniary forfeiture for breach of contract, inserted in the deed of contract or conditions of sale by public auction, as the case may be, may be enforced in the same manner as a demand for the land-revenue under the law for the time being in force, so far as applicable.

Acts of servant of contractor.

6. When a public ferry has been duly leased or farmed out,

every servant of the lessee, contractor or farmer shall be deemed to be legally bound to do everything necessary for or conducive to the safety of the public which he shall be required to do by any regulation made by the lessee, contractor or farmer, and approved by Government, and of which regulation such servant shall have had notice, and

every such servant shall be deemed to be legally prohibited from doing every act which shall be likely to cause danger, and which by any such regulation he shall be prohibited from doing, and

every person employed by or on behalf of such lessee, contractor or farmer to do any act upon the ferries shall be deemed to be a servant of the lessee, contractor or farmer.

Table of tolls to be hung up.

7. It shall be the duty of every toll-keeper, toll-contractor or farmer to hang up in some conspicuous place at his ferry-station a table of tolls, written or printed in English and in the language of the district.

Penalty in respect to table of tolls.

8. Any toll-keeper or toll-contractor or farmer

who shall neglect to hang up and keep in good order and repair a table of tolls as aforesaid, or

who shall wilfully remove, alter or deface the same, or allow it to become illegible,

shall be liable on each conviction to a penalty not exceeding ten rupees.

Penalty for taking unlawful toll.

9. Any toll-keeper or other person appointed as in section 4, who shall neglect to take the due toll, or shall ask or take any toll other than is allowed by the table of tolls, and

any toll-contractor or farmer, or any person in the service of a toll-contractor or farmer, who shall ask or take any toll in excess of that allowed by the table of tolls,

[1] *See* Bombay Local Rules and Orders, Ed. 1898, Vol. II, p. 501 *et seq.*

shall be liable to a penalty not exceeding fifty rupees.

Penalty for wilful delay.

10. Any toll-keeper or other person appointed as in section 4, or toll-contractor or farmer or person in the service of a toll-contractor or farmer, who without good reason shall delay any passenger, cart, carriage, animal or goods, shall be liable to a penalty not exceeding fifty rupees.

Penalty for refusal or evasion of toll, and for obstruction or damage.

11. Any person

who shall refuse to pay the lawful toll, or

who, with intent of avoiding payment thereof, shall pass through any ferry-station without paying the toll, or

who shall obstruct in the execution of his duty any toll-keeper or other person lawfully engaged in the management or conduct of a public ferry, and also

any person who shall maliciously damage any toll-bar, boat or other thing belonging to a public ferry, or

who shall maliciously remove, alter, destroy or damage any table of tolls hung up as hereinbefore directed,

shall be liable to a penalty not exceeding fifty rupees, over and above the value of the damage done.

Officers who may make rules for regulation of public ferries.

12. The Senior Magistrate of Police in the city of Bombay, and the Collector of the district elsewhere, may, subject to such general directions as Government from time to time may issue, make [1] rules to determine the number of passengers, carts, carriages and animals, and the quantity of goods, that may be carried in any public ferry-boat at one trip, and for the safe, speedy and convenient carriage and landing of passengers and property, and for keeping the ferry-boats in good order, and otherwise for the due discharge of their duty by toll-contractors or farmers, toll-keepers, ferrymen and other persons employed at a public ferry;

and any toll-contractor or farmer, toll-keeper, ferryman or other person infringing or disobeying any such rule shall be liable to make good any loss or damage caused thereby, which loss or damage may be summarily ascertained by any Magistrate within whose jurisdiction the offence was committed, and the amount thereof may be recovered as any penalty under this Act may be recovered.

Penalty for conveying passengers or goods without

13. Any person who, without the special license of Government, shall convey for hire any passenger, animal, cart, carriage or goods from any part of the city of Bombay across the harbour of Bombay to the mainland, or any

[1] *See* Bombay Local Rules and Orders, Ed. 1898, Vol. II, p. 512.

of the adjacent islands, or from the mainland or any of the adjacent islands to any part of the city of Bombay, shall be liable to a penalty not exceeding five hundred rupees; License at Bombay.

but this penalty shall not apply to the conveyance by boat for hire of passengers, animals, carts, carriages and goods from one part of the city of Bombay to any other part thereof, nor to any person specially hiring a boat for the conveyance of himself or his family or friends, or servants or goods, nor to the person letting such boat for hire for the said purpose. Proviso.

14. Any person who, except as in the section last preceding, shall convey for hire any passenger, animal, cart, carriage or goods across any creek or river within the Presidency of Bombay to any point on the opposite shore or bank, not being more than three miles on either side above or below any public ferry, without the license of the Collector of the district in which the ferry is situated, shall be liable to a penalty not exceeding five hundred rupees. Penalty for carrying passengers, etc., within three miles of public ferry.

[1]**14A.** Any person who, except as is aforesaid, shall convey for hire any animal, cart, carriage or goods across any river or creek between two points both of which are less than three miles distant from a bridge at which under the provisions of any law for the time being in force a toll is leviable on animals, carts or carriages; or Penalty for conveying animal, etc., across creek or ferry near toll-bridge,

who shall convey for hire any passenger, or any pálankín, dúlí, pálná or tonjon, or other thing across any river or creek between two such points as aforesaid when under the provisions of any law for the time being in force a toll is leviable at the bridge on passengers, pálankíns, dúlís, pálnás, tonjons or such other thing, for conveying passengers, etc., near such bridge.

shall be liable to a penalty not exceeding five hundred rupees.

15. In the city of Bombay offences against this Act shall be summarily heard and determined by any Magistrate of Police, and all fines imposed may, in default of payment, be levied under the warrant of such Magistrate by distress and sale of the goods of the offender. Trial of offences in Bombay;

In places not within the limits of the city of Bombay offences against this Act shall be inquired into and determined by any Magistrate exercising jurisdiction in the district in which the offence has been committed, and all fines imposed may be levied in the manner provided in section 61 of the Criminal Procedure Code.[2] in places out of city. Recovery of fines.

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[1] S. 14A was inserted by the Bombay Ferries (Amendment) Act, 1878 (Bom. Act 2 of 1878), s. 2, *infra*, p. 580.

[2] *See* now ss. 386, 387 and 389 of the Code of Criminal Procedure, 1898 (Act 5 of 1898), as modified up to 1st April, 1903.

[1]16. [*Application of proceeds of tolls, farms and penalties.*] *Rep. Bom. Act 1 of 1884.*

Government may delegate powers.

17. Government may [2]delegate, under such restrictions as may seem fit, any of the powers conferred on it by this Act, *ex officio*, to any [3]* * * * Commissioner, Collector, Magistrate or other person.

Short title.

18. This Act may be cited as the Bombay Ferries Act, 1868.

BOMBAY ACT No. III OF 1868.[4]

[*1st January, 1869.*]

An Act to amend the Schedule annexed to [5]Act No. V of 1867 (Bombay).

Preamble.

WHEREAS it has been deemed expedient to revise the schedule annexed to [5]Act No. V of 1867 (Bombay), and to empower Government to amend the said schedule so as to avoid the necessity of having recourse to legislation when any modification is required in the list of persons privileged under section 15 of [6] (Bombay) Act XII of 1866; It is enacted as follows:—

Schedule substituted in Act XII of 1866.

1. * * * * *[7] The schedule annexed to this Act shall be taken to be and shall be the schedule to which reference is made in section 15 of [6]Act No. XII of 1866 (Bombay).

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[1] S. 16 which is repealed, except in Aden and the city of Bombay, by the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884), s. 2, and Schedule *infra*, p. 861, is as follows:—

Clause 1.—In each district the proceeds from tolls and farms of public ferries, and from penalties levied under this Act, shall form the ferry-fund of such district, and shall be appropriated in the first instance to the maintenance of the public ferries of the district, and the improvement of the roads leading to the said ferries, the surplus, if any, being expended on local works in the district in such manner as Government may from time to time direct.

Clause 2.—The limits of each district for the purposes of this section shall be such as Government may from time to time determine.

Clause 3.—When a public ferry is partly in one district and partly in another, it shall be lawful for Government to assign to each district such proportion of the proceeds as they shall deem fit.

[2] *See* Bombay Local Rules and Orders, Ed., 1898, Vol. II, p. 513, *et. seq.*

[3] The words "Revenue or Police" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[4] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1868, Pt. V, p. 491 and for Proceedings in Council, *see ibid*, p. 584.

[5] Bom. Act 5 of 1867 was repealed by the Repealing Act, 1873 (12 of 1873).

[6] *Supra*, p. 458.

[7] The words "Schedule annexed to Act No. V of 1867 (*an Act to amend the Schedule annexed to Act No. XII of 1866, Bombay*) is repealed; and" were repealed by the Repealing Act 1873 (12 of 1873).

Power to amend schedule by notification.

2. It shall be lawful for Government from time to time by [1] notification to amend the schedule to which reference is made in section 15 of [2] (Bombay) Act XII of 1866, and the schedule so amended shall be taken to be, and shall be, from the date of such notification, the schedule to which reference is made in section 15 of the said Act :

Provided always that no person shall be included in the said schedule who is not a member of one of the late reigning families in Sindh.

SCHEDULE.

[*Supra*, p. 465.]

THE BOMBAY LOCAL FUNDS ACT, 1869.

CONTENTS.

PREAMBLE.

SECTIONS.

1 to 5. [*Repealed.*]
6. Levy of one anna cess on every rupee of land-revenue for purposes of Act.
Proviso.
7. Rules for assessment.
8. Cess to be levied as land-revenue.
9 to 14. [*Repealed.*]
15. Sindh and City of Bombay excluded.
16. Short title.

[1] For new additions by notifications issued under this section, *see* the schedule annexed to Bom. Act 12 of 1866, *supra*, p. 465.

[2] *Supra*, p. 458.

BOMBAY ACT No. III OF 1869.[1]

[*3rd April, 1869.*]

An Act to provide in the Presidency of Bombay funds for expenditure on objects of local public utility and improvement.

[2] * * * *

Preamble.

WHEREAS it is expedient to provide funds for local works of public utility and convenience, and to make better provision for education and sanitary improvements in the Presidency of Bombay [3] * * * * *; It is enacted as follows :—

1 to 5.—[*Power to define limits of districts; Local fund committees; officers and establishments.*] *Rep.* (*except as to Aden*) *by Bom. Act I of 1884.*

Levy of one anna cess on every rupee of land-revenue for purposes of Act.

6. It shall be lawful for Government to levy, for the purposes of this Act, on the conditions and in the manner hereinafter described, from all lands in the Presidency of Bombay, except jágír-lands not under the general Regulations, and also from every farmer of land or saír revenue in respect of any such farm taken from the Collector or other officer on behalf of Government after the date on which this Act comes into operation, a cess not exceeding one anna on every rupee that is assessable to the ordinary land-revenue, or that would have been so assessable had there been no alienation of such revenue, and on every rupee that is payable by such farmer of land or saír revenue in respect of such farm :

Proviso.

Provided that in respect of lands of which a settlement for a term of years is for the first time made after this Act comes into operation such cess be imposed at the time when such settlement is made, and at no other period during the currency of the term.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1868, Pt. V, p. 547; for Report of the Select Committee, *see ibid*, 1869, pp. 88 and 212 (52) and for Proceedings in Council, *see ibid*, 1869, pp. 212 (30, 69 and 89).

The net proceeds of the cess levied under Bom. Act 3 of 1869 are to be credited to the Local Fund constituted by the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884), *see* s. 44 of that Act *infra*, p. 847.

[2] The words "*and to constitute Local Committees for the due administration of such funds*" were repealed (except as to Aden) by the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884), *infra*, p. 829.

[3] The words "*and whereas it is expedient to constitute Local Committees to provide for the due appropriation of such funds to the purposes aforesaid*" were repealed (except as to Aden) by the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884), *infra*, p. 829.

Rules for assessment.

Bom. V of 1879.

7. In assessing this cess on alienated villages as defined in [1][the] [2][Bombay Land-revenue Code, 1879] the following rules shall be adopted :—

I.—If the village has been surveyed and assessed on the principles laid down in [1][the] [2][Bombay Land-revenue Code, 1879], the cess shall be fixed on the total annual assessment of the village as made by the survey-officers.

II.—If the village has come under summary settlement under [3](Bombay) Act II or [4](Bombay) Act VII of 1863, the cess shall be fixed until the village is brought under the preceding rule, on the total annual assessment as settled for the purposes of summary settlement.

III.—On villages not included in the preceding rules, the cess shall be fixed on the old or kammál rate recorded in the Collector's books; but [5][if no such rate is so recorded or if the rate so recorded is] objected to by the holder or proprietor of the alienated village, then the cess may be fixed as agreed on by the Collector and such holder or proprietor, or failing agreement, then by a rough survey and assessment to be made by survey-officers, the expense of such rough survey being borne half by Government and half by the holder or proprietor of such village.

Cess to be levied as land-revenue.

8. The cess described in sections 6 and 7 * * * *[6] shall be levied in the same manner, and under the same provisions of law, as the ordinary land-revenue, and through the agency of such officers as shall from time to time be appointed for the purpose by the Collector, acting under the general control of Government or of the [7][Commissioner of the division] or other officer from time to time duly empowered on that behalf by Government.

The provisions of the law relative to the assistance to be given to superior holders for the recovery of their dues from their tenants and occupants under

[1] The word "the" was inserted by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 223.

[2] These words and figures were substituted for the words and figures "(Bombay) Act 1 of 1865" by the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884), *infra*, p. 829. The amendment does not, however, extend to Aden as Bom. Act 1 of 1884 does not apply to Aden.

For the Bombay Land-revenue Code, 1879 (Bom. Act 5 of 1879), *see infra*, p. 631.

[3] *Supra*, p. 386.

[4] *Supra*, p. 437.

[5] These words were substituted for the words "if this rate be" by the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884), s. 75 (*c*), *infra*, p. 860.

[6] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[7] These words were substituted for the words "Revenue Commissioner" by the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884), s. 75 (*b*). The amendment does not affect Aden as Bom. Act 1 of 1884 does not extend to Aden.

them shall be applicable to all superior holders, whether of alienated or unalienated land in respect of the recovery of this cess from their tenants and occupants, and shall be applicable also to occupants of land under [1][the] [2][Bombay [3] Land-revenue Code, 1879] for the recovery of this cess from their tenants or joint occupants. Bom. V of 1879.

9 to 13.—[*Accounts ; assignments ; administration of other funds ; power to make rules ; "Collector" and "Sub-Collector" defined.*] *Rep.* (*except as to Aden*) *Bom. Act I of 1884.*

14.—[*Cess collected previous to operation of Act.*] *Rep. Act XII of 1873.*

Sindh and City of Bombay excluded.

15. This Act is not applicable to the Province of Sindh or to the City of Bombay.

Short title.

16. This Act may be cited as the Bombay Local Funds Act, 1869.

THE BOMBAY TRAMWAYS ACT, 1874.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Interpretation-clause.
3. Routes on which tramways to be maintained.
4. Notice in Government Gazette of new tramway.
5. Form in which tramways to be maintained.
6. Construction of carriages.
7. Grantees may use tramway carriages with flange-wheels.
8. Reservation of right of public to use roads.
9. Carriages to be worked with animal-power.
10. Power to break up streets, etc.
11. Completion of works and reinstatement of road.
12. Repair of part of road where tramway laid.
13. Penalty for failure by grantees to comply with provisions of Act.
14. Work may be executed by Municipal Commissioner at cost of grantees if they delay or omit to perform it.
15. Reservation of power over roads.

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[1] The word "the" was inserted by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 223.

[2] These words and figures were substituted for the words and figures "(Bombay) Act 1 of 1865" by the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884), s. 75 (*a*). The amendment does not affect Aden as Bombay Act 1 of 1904 does not extend to den, Vol. IV of this Code.

[3] For the Bombay Land-revenue Code, 1879 (Bom. Act V of 1879), *see infra*, p. 631.

SECTIONS.

16. Grantees may demand fees or charges.
17. Printed list of fares, etc., to be placed in carriages.
18. Fares to whom to be paid.
19. Penalty for obstructing grantees in exercise of power.
20. Penalty for interfering with tramways.
21. Penalty for avoiding payment of proper fare.
22. Servant of grantees may arrest persons avoiding payment.
23. Carriage of dangerous or offensive goods.
24. Bye-laws by Municipal Commissioner.
Grantees may make certain regulations.
25. Penalty for breach of bye-laws.
26. Penalties how recovered.
27. Responsibility of grantees for damages.
28. Power for Municipal Commissioner and police to regulate traffic on roads.
29. Municipal Commissioner may remove tramway if working discontinued for six months.
30. Municipal Corporation have right of purchasing tramways after twenty-one years.
31. Grantees may sell rights and powers to others.

SCHEDULE.

BOMBAY ACT No. I OF 1874.[1]

[*15th May, 1874.*]

An Act to authorize the making, and to regulate the working, of Street-tramways in Bombay.

WHEREAS the Corporation of the Justices of the Peace for the city of Bombay, by an agreement dated the twelfth day of March, 1873, for the considerations therein expressed, granted to William French Stearns and George Alvah Kittredge and their assigns the right to construct and maintain and to use a tramway or tramways in Bombay upon the terms and in the manner mentioned in the said agreement, a copy whereof is set forth in the schedule [2] * * *, and the said agreement had on the third day of March, 1873, received the sanction of the Governor of Bombay in Council; **Preamble.**

And whereas the said W. F. Stearns and G. A. Kittredge are desirous of being empowered to lay down and maintain the several street-tramways in the

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1874, Pt. V, p. 95; for Report of the Select Committee, *see ibid*, p. 96, and for Proceedings in Council, *see ibid*, pp. 108 and 115.

[2] The words "to this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

said agreement and in this Act particularly described, and also such other tramways between such other places in Bombay, and by such other routes, as may hereafter be approved ;

And whereas the objects of this Act cannot be attained without the authority of the Legislature ;

It is hereby enacted as follows :—

Short title.

1. This Act may be cited for all purposes as the Bombay Tramways Act, 1874.

Interpretation-clause.

2. The following words and expressions in this Act shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction :—

the expression " the said Corporation " shall mean the Municipal Corporation of the city of Bombay constituted by [1] Act III of 1872 or any other Act passed by the Governor of Bombay in Council :

the expression " the Municipal Commissioner " shall mean the Municipal Commissioner for the city of Bombay appointed under the provisions of the said [1]Act III of 1872 or any subsequent Municipal Act, or any person officiating in the said office :

the expression the " tramways " or the " undertaking " shall mean the tramways and works and undertaking by this Act authorized, or any part thereof :

the word " road " shall mean the way of any street, road, thoroughfare, passage or place along or across which any tramway authorized by this Act is intended to be laid, and includes the surface-pavement, soil and sub-soil of a street and any bridge forming part of a street.

Routes on which tramways to be maintained.

3. Subject to the provisions of this Act, and subject to the said agreement of the twelfth of March, 1873, so far as the same is not inconsistent with anything in this Act, the said W. F. Stearns and G. A. Kittredge, their executors, administrators and assigns (hereinafter called the said grantees), may make and maintain in the city of Bombay a tramway or tramways with single or double tracks and with all necessary sidings, turn-outs, connections and tracks to and from their stables on the following routes :—

from a point near the Grant Buildings, Kolába, by Hornby Row and the Cruickshank Road to the Money School, a double track : Provided that this tramway shall not be carried or maintained across the Bombay, Baroda and Central India Railway or any siding which may at any time be constructed

[1] *See* now the City of Bombay Municipal Act, 1888 (Bom. Act 3 of 1888), Vol. III of this Code.

from the Cotton Green to the Apollo Bay Reclamation so as to obstruct the said railway or any such siding;

from a point of junction with the above tramway near the junction of Bázár Gate Street and Hornby Row to a point near the Crawford Market, a double track;

from the Money School to a point near Paidhoní Well along the Kalbadáví Road and the Coppersmiths' Bázár, Mombadáví, a single track,[1] [or such double track as may, at any time with the previous consent of the said Corporation, be approved by the Municipal Commissioner and be sanctioned by Government];

from the Crawford Market along Sayad Abdul Rahmán Street to a point of junction with the foregoing tramway near the Paidhoní Well, a single track, [1][or such double track as may, at any time with the previous consent of the said Corporation, be approved by the Municipal Commissioner and be sanctioned by Government];

[2] * * * * * * *

and may also make and maintain a tramway along the following route when approved by the Municipal Commissioner:

from the said point near Paidhoní Well along the Parel Road to a point near the Baikala Railway-station, a single or double track as may be approved of by the Municipal Commissioner for the said city and sanctioned by Government;

and may also make and maintain tramways between such other places in the said city and by such other routes as may hereafter be approved of by the Municipal Commissioner for the said city and sanctioned by Government.

Notice in Government Gazette of new tramway.

4. In the event of any other tramway or tramways on other routes in the said city being from time to time approved by the said Commissioner and sanctioned by Government and undertaken by the said grantees, [3] notice thereof specifying the routes so approved shall thereupon be given in the Bombay Government Gazette, under the signature of a Secretary to Government, and upon the publication of any such notice all the provisions of this

[1] These words were added by the Bombay Tramways Act Amendment Act of 1895 (Bom. Act 2 of 1895), Vol III of this Code.

[2] The following proviso was repealed by the Bombay Tramways Act Amendment Act of 1895 (Bom. Act 2 of 1895), Vol. III of this Code.

"Provided, however, that in case after the expiration of one year from the date when this track shall have been constructed it shall be considered by Government to be necessary or expedient that the same shall be removed, the grantees shall immediately after they shall have received an order from Government in that behalf at their own expense remove the said track and all their plant and materials from the said street, and restore and make good the road and pavement and remove all rubbish occasioned by the said track or the removal thereof, and the said grantees shall not be entitled to or claim any compensation in respect of such removal."

[3] For notices sanctioning other routes, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, pp. 521 to 523.

Act shall apply to the tramway or tramways in such notice specified, and all works and things connected with or incidental thereto as if the same route or routes had been particularly described in section 3. * * *[1]

Form in which tramways to be maintained.

5. Every tramway shall be constructed and maintained in such form and manner and upon such gradient and with such gauge and rails as the said Municipal Commissioner shall approve, and shall be laid and maintained in such manner that the uppermost surface of the rail shall be on a level with the immediately adjacent surface of the road, and shall not be opened for public traffic until the same has been inspected and certified to be fit for such traffic by the Municipal Commissioner.

Construction of carriages.

6. The carriages intended to run upon the said rails shall be furnished with a brake which can be worked at each end of the carriage, and shall be of a construction approved by the Municipal Commissioner.

No carriage used on any tramway authorized under this Act shall extend beyond the outer edge of the wheels of such carriage more than fourteen inches on each side [2][without consent of the said Corporation."]

Grantees may use tramway-carriages with flange-wheels.

7. The grantees may use on their tramways carriages with flange-wheels, or wheels suitable only to run on a grooved rail, and, subject to the provisions of this Act, the grantees shall have the exclusive use of their tramways for carriages with flange-wheels or other wheels suitable only to run on a grooved rail.

Reservation of right of public to use roads.

8. Nothing in this Act or in any bye-law made under this Act shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange-wheels or wheels suitable only to run on a grooved rail.

Carriages to be worked with animal-power.

9. The carriages of the grantees on the tracks of the said tramways shall, unless with the consent of the said Municipal Commissioner and the sanction of Government, be worked with horse-power or other animal-power only, and the [3]* rate of speed on the said tramway shall [4][not exceed such maximum as the Municipal Commissioner, with the previous sanction of Government, shall from time to time prescribe].

Power to break up streets, etc.

10. The grantees from time to time, for the purpose of making, forming, laying down, maintaining and renewing any tramway duly authorized, or any part or parts thereof respectively, may open and break up any road, subject to the following regulations ;

(*1*) They shall give to the Municipal Commissioner, or to the executive

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[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] These words were added by the Bombay Tramways Act (1874) Amendment Act, 1907, (Bom. Act I of 1907), Vol. IV of this Code.

[3] The word "maximum" was repealed by *ibid.*

[4] These words were substituted for the words "be eight miles per hour," by *ibid.*

engineer of the said Corporation, notice of their intention, specifying the time at which they will begin to do so, and the portion of road proposed to be opened or broken up, such notice to be given seven days at least before the commencement of the work, except in cases of emergency arising from defects in any of the rails or other work, and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen :

(*2*) They shall not open or break up, or alter, the level of any road except under the superintendence and to the reasonable satisfaction of the Municipal Commissioner or executive engineer, unless the said Municipal Commissioner or executive engineer refuses or neglects to give such superintendence at the time specified in the notice, or discontinues the same during the work :

(*3*) They shall not, without the consent of the Municipal Commissioner, open or break up at any one time a greater length than one hundred yards of any road which does not exceed a quarter of a mile in length ; and in the case of any road exceeding a quarter of a mile in length the grantees shall leave an interval of at least a quarter of a mile between any two places at which they may open or break up the road, and they shall not open or break up at any such place a greater length than one hundred yards.

Completion works and reinstatement of road.

11. When the grantees have opened or broken up any portion of any road, they shall be under the following further obligations, namely :—

(*1*) They shall, with all convenient speed, and in all cases within four weeks at the most (unless the Municipal Commissioner otherwise consents in writing), complete the work on account of which they opened or broke up the same, and (subject to the formation, maintenance or renewal of the tramway) fill in the ground, and make good the surface, and to the satisfaction of the Municipal Commissioner restore the portion of the road to as good condition as that in which it was before it was opened or broken up, and clear away all surplus paving or metalling material or rubbish occasioned thereby :

(*2*) They shall in the meantime cause the place where the road is opened or broken up to be fenced and watched, and to be properly lighted at night.

Repair of part of road where tramway laid.

12. The grantees shall, at their own expense, at all times maintain and keep in good condition and repair, in such manner as the Municipal Commissioner shall direct, and to his satisfaction, so much of any road whereon any tramway belonging to them is laid as lies between the rails of the tramway and (where two tramways are laid by the grantees in any road at a distance of not more than four feet from each other) the portion of the road between

the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway.

And, in consideration of such maintenance of parts of roads and of the yearly rent in the said agreement mentioned to be paid by the grantees, the horses and carriages and other vehicles of the said grantees shall be exempt from municipal taxation.

Penalty for failure by grantees to comply with provisions of Act.

13. If the grantees aforesaid fail to comply in any respect with the provisions of sections 5, 6, 9, 10, 11 and 12 * * * [1] they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act or to any other remedy against them), upon complaint of the Municipal Commissioner, be liable to a penalty not exceeding two hundred rupees, and to a further penalty not exceeding fifty rupees for each day during which any such failure continues after the first day on which such penalty is incurred.

Work may be executed by Municipal Commissioner at cost of grantees, if they delay or omit to perform it.

14. If any unnecessary delay or omission shall take place on the part of the said grantees in complying with any order which may be made on them by Government for the removal of the said track authorized to be constructed along Sayad Abdul Rahman Street as hereinbefore mentioned, or of any other track the construction of which may have been sanctioned subject to similar provisions, or otherwise in acting in accordance with the proviso hereinbefore contained regarding that track, or in the performance of any of the works specified in sections 10 and 11 * * * [1] or in filling in the ground or reinstating and making good the road or pavement so opened or broken up, or in carrying away the rubbish occasioned thereby, or if they neglect to cause the place where such road has been broken up to be guarded and lighted, or neglect to maintain or keep in repair the portion of the road which shall be occupied by their tracks, the Municipal Commissioner may cause the work so delayed or omitted to be executed at the expense of the said grantees, and the certificate in writing of the said Municipal Commissioner as to the expense so incurred shall be conclusive, and the said grantees shall not be at liberty to dispute the same in any Court of law.

Reservation of power over roads.

15. Nothing in this Act shall be construed to prevent the said Municipal Commissioner or the Corporation, or the Bombay Gas Company, Limited, in the exercise of the powers conferred upon them under [2]Act V of 1863 of the Governor of Bombay in Council, from taking up any of the roads

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] *Supra*, p. 413.

traversed by the said tramway for the purposes for which he or they may now lawfully take up the same : Provided always that—

(1) they shall cause as little detriment or inconvenience to the grantees as circumstances admit :

(2) before they commence any work whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the grantees notice of their intention to commence such work, specifying the time at which they will begin to do so, such notice to be given eighteen hours at least before the commencement of the work :

(3) they shall not be liable to pay to the grantees any compensation for injury done to the tramway by the execution of such work, or for loss of traffic occasioned thereby, or for the reasonable exercise of the powers so vested in them as aforesaid.

Grantees may demand fees or charges.

16. The grantees may demand and take for every passenger travelling upon any of the tramways, or any part or parts thereof respectively, or for the carriage of goods by such tramways, such fares or charges as they may fix from time to time :

Provided that the rates of fares, on at least one-half of the carriages available for passengers which shall daily run on the said tracks, shall for any distance not exceeding three miles not exceed three annas, and for any greater distance shall be at the rate of three annas for every three miles or any portion thereof.

Printed list of fares etc., to be placed in carriages.

17. A printed list in English, Maráthi and Gujaráthi of all the fares and charges authorized by this Act to be taken, and a printed copy in the same languages of all bye-laws in force as hereinafter mentioned, shall be exhibited in a conspicuous place inside each of the carriages used by the grantees upon any of their tramways.

Fares to whom to be paid.

18. The fares and charges by this Act authorized shall be paid to such persons, at such places upon or near to the tramways, and in such manner and under such regulations, as the grantees shall, by notice to be annexed to the list of fares, appoint.

Penalty for obstructing grantees in exercise of power.

19. If any person wilfully obstructs any person acting under the authority of the grantees in the lawful exercise of their powers in setting out or making, laying down, repairing or renewing a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall for every offence be liable to a penalty not exceeding fifty rupees, and shall

also be liable to pay such damages as may be awarded in respect of such injury by any competent Court.

Penalty for interfering with tramways.

20. If any person without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things, namely :—

interferes with, removes or alters any part of a tramway of the grantees or of the works connected therewith :

does or causes to be done anything in such a manner as to obstruct any carriage using the tramways : or

knowingly aids or assists in the doing of such thing :

he shall for every such offence be liable (in addition to any proceedings by way of criminal charge or otherwise to which he may be subject) to a penalty not exceeding one hundred rupees.

Penalty for avoiding payment of proper fare.

21. If any person travelling or having travelled in any carriage of the grantees avoids or attempts to avoid payment of his fare, or

if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or

if any person knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit such carriage,

every such person shall for every such offence be liable to a penalty not exceeding ten rupees.

Servant of grantees may arrest persons avoiding payment.

22. It shall be lawful for any servant of the grantees, and all persons called in by him for his assistance, to arrest and take to the nearest police-station any person who shall be discovered either in or after committing or attempting to commit any such offence as in the next preceding section mentioned, and whose name and residence is refused by him and is unknown to such servant or person, and the police-officer in charge of the said police-station, on receiving a complaint that an offence under this Act has been committed, shall adopt such legal measures as may be necessary to cause the said person to be taken before a Magistrate with the least possible delay.

Carriage of dangerous or offensive goods.

23. No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous or offensive nature, and if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant of the grantees with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding rupees fifty for every such offence, and it shall be

lawful for the grantees to refuse to take any parcel that they may suspect to contain goods of a dangerous or offensive nature, or require the same to be opened to ascertain the fact.

Bye-laws by Municipal Commissioner.

24. The Municipal Commissioner may, from time to time, make regulations as to the following matters:—

the rate of speed to be observed in travelling upon the tramway :

the distances at which carriages using the tramway shall be allowed to follow one after the other :

the stopping of carriages using the tramway :

the hours during which such carriages carrying goods shall run on the tramway :

the traffic on the road in which the tramway is laid.

Grantees may make certain regulations.

The grantees may from time to time make regulations—

for preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to them :

for regulating the travelling in or upon any carriage belonging to them.

And, for better enforcing the observance of all or any of such regulations, it shall be lawful for such Municipal Commissioner and grantees respectively, subject to confirmation thereof by the Governor of Bombay in Council to be signified under the hand of a Secretary to the said Governor in Council, to make bye-laws for all or any of the aforesaid purposes, and from time to time repeal or alter such bye-laws, and make new bye-laws, provided that such bye-laws be not repugnant to the provisions of this Act or of any law for the time being in force in the city of Bombay.

Notice of the making of any bye-law under the provisions of this Act shall be published by the Municipal Commissioner in the Bombay Government Gazette.

Penalty for breach of bye-laws.

25. Any person offending against any bye-law made under the provisions of the next preceding section shall forfeit for every offence any sum not exceeding twenty-five rupees, to be imposed in such bye-laws as a penalty for such offence.

Penalties how recovered.

26. All fare, penalties, forfeitures and charges under this Act or under any bye-law made in pursuance of this Act may be recovered and enforced before a Police Magistrate of Bombay by a summary proceeding ; and in default of payment of such fare, penalty, forfeiture or charge, the same may be levied under the warrant of such Magistrate by distress and sale of the goods of such offender, with all such powers for the issuing of such warrant and upon the return thereof as are exercised by a Magistrate of Police under Act XIII

of 1856[1] or any other Act for regulating the Police of the Town of Bombay in force for the time being.

Responsibility of grantees for damages.

27. The grantees shall be answerable for all accidents, damages and injuries happening through their act or default, or through the act or default of any person in their employment, by reason or in consequence of any of their works or carriages, and shall save harmless the Municipal Corporation of the city of Bombay and their officers and servants from all damages and costs in respect of such accidents, damages and injuries.

Power for Municipal Commissioner and Police to regulate traffic on roads.

28. Nothing in this Act shall limit the powers of the Municipal Commissioner or the Police to regulate the passage of any traffic along or across any road along or across which any tramways are laid down, and such Municipal Commissioner or Police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the grantees as to the traffic of other persons.

Municipal Commissioner may remove tramway if working discontinued for six months.

29. If at any time after the opening of any tramway for traffic the grantees shall discontinue the working of such tramway or any part thereof for the space of six [2] * months (such discontinuance not being occasioned by circumstances beyond the control of the grantees, for which purpose the want of sufficient funds shall not be considered a circumstance beyond their control), it shall be lawful for the said Municipal Commissioner without any previous notice to the grantees to remove the tramway or any part of the tramway so discontinued, and the grantees shall pay to the said Corporation the cost of such removal and the making good of the streets, roads or bridges consequent on such removal, and the certificate of the said Municipal Commissioner as to such cost shall be conclusive evidence as between the said Corporation and the said grantees.

Municipal Corporation have right of purchasing tramways after twenty-one years.

30. The said Municipal Corporation of the city of Bombay shall have the right of purchasing the said tramways, with the plant, stores, rolling-stock and everything connected therewith after the expiration of twenty-one years from the twelfth day of March, 1873, upon declaring its intention so to do within six months after the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years upon similar notice being given ;

the amount to be paid in the event of such purchase shall be the actual *bonâ fide* value (exclusive of any compensation for goodwill, premium or

[1] Act 13 of 1856 has been repealed by the City of Bombay Police Act, 1902 (Bom. Act IV of 1902), Vol. IV of this Code.

[2] The word "calendar" was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act 1904, (Bom. Act 1 of 1904), Vol. IV of this Code.

compulsory sale or other consideration whatsoever) of the tramways, and of the works and materials connected therewith and of the lands and buildings and all other the property of the grantees, such value in case the parties do not agree to be decided by arbitration as provided by the said agreement of the twelfth day of March, 1873, and as compensation for the goodwill, premium or compulsory sale and other consideration, the grantees shall be paid an amount equal to twenty-one years' purchase, calculated on the average profits of the previous three years next preceding the purchase, four per cent. per annum on the *bonâ fide* value mentioned above being first deducted from such profits.

Grantees may sell rights and powers to others.

31. At any time the grantees may sell the undertaking to any person, persons, Corporation or Company (subject nevertheless to the provisions of the said agreement or such of them as shall be then subsisting), and, when any such sale has been made, all the rights, powers, authorities, obligations and liabilities of the grantees under the said agreement and this Act shall be transferred to, vested in, and may be exercised by, and shall attach to, the person, persons, Corporation or Company to whom the same has been sold, in like manner as if such person, persons, Corporation or Company had been authorized to construct the tramways of the grantees then already constructed and thereafter to be constructed instead of the grantees.

SCHEDULE.

ARTICLES OF AGREEMENT made this Twelfth day of March, One Thousand Eight Hundred and Seventy-three, between the JUSTICES OF THE PEACE FOR THE CITY OF BOMBAY, incorporated under [1]Act II of 1865 of the Legislative Council of Bombay, hereinafter called the said Justices, of the one part; and WILLIAM FRENCH STEARNS and GEORGE ALVAH KITTREDGE, hereinafter called the grantees, of the other part.

Whereas the said Justices have agreed to grant to the said WILLIAM FRENCH STEARNS and GEORGE ALVAH KITTREDGE the right to construct, maintain and use a tramway in Bombay upon the terms and conditions hereinafter contained: NOW THESE PRESENTS WITNESS that, in consideration of the covenants and agreements hereinafter contained, and on the part of the said Justices to be performed, the said grantees, for themselves, their heirs, executors and administrators, do, and each of them for himself,

[1]The Bombay Municipal Act of 1865 (Bom. Act 2 of 1865) was repealed by Bom. Act 3 of 1872, which was itself repealed by the City of Bombay Municipal Act, 1888 (Bombay Act 3 of 1888), Vol. III of this Code.

his heirs, executors and administrators doth, covenant with the said Justices and their successors, so far as the covenants and agreements hereinafter contained are, or ought to be, performed by the said grantees and their assigns; and the said Justices, for and in consideration of the covenants and agreements hereinafter contained, and on the part of the said grantees and their assigns to be performed, do hereby covenant with the said grantees and their assigns, so far as the covenants and agreements hereinafter contained are, or ought to be, performed by the said Justices and their successors, in manner following: THAT IS TO SAY:—

1. The said Justices grant to the said WILLIAM FRENCH STEARNS and GEORGE ALVAH KITTREDGE, and their assigns, the right to construct, maintain and use a tramway or tramways, with single or double tracks, and with all necessary sidings, turn-outs, connections and tracks, to and from the stables of the grantees or their assigns, on the following routes, and between such other places, and by such other routes, as may be hereafter approved of by the Municipal Commissioner for the city of Bombay.

The tramways referred to, and now authorized for immediate construction, are—

From a point near the Grant Buildings, Kolába, to the Money School, A DOUBLE TRACK.

PROVIDED that this tramway will not be carried across the Bombay, Baroda and Central India Railway, or any sidings which it may now be contemplated to construct from the Cotton Green to the Apollo Bay Reclamation, without the express permission of Government.

From a point of junction with the above tramway near the junction of Church-gate Street and Rampart Row to a point near the Crawford Market, A DOUBLE TRACK.

From the Money School to a point near Paidhoní Well, along the Kalbadávi Road and the Coppersmiths' Bázár, Mombadavie, A SINGLE TRACK.

From the Crawford Market along Sayad Abdul Rahmán Street to a point of junction with the foregoing tramway near the Paidhoní Well, A SINGLE TRACK: Provided, however, that, in case after the expiration of one year from the date when this track shall have been constructed, it shall be considered by Government to be necessary or expedient that the same shall be removed, the grantees shall immediately after they shall have received an order from Government in that behalf, at their own expense remove the said track, and all their plant and materials, from the said street, and restore and make good the road and pavement, and remove all rubbish occasioned by the said

track or the removal thereof, and the said grantees shall not be entitled to or claim any compensation in respect of such removal.

And also the following when approved by the Municipal Commissioner:—

From the said point near Paidhoní Well along the Parel Road to a point near the Byculla Railway station.

2. The said tramway shall be constructed and maintained in such form and manner, and upon such gradient and with such gauge, as the Municipal Commissioner may approve; and the cars and carriages intended to run on the said rails shall be such as are approved of by the said Commissioner.

3. The cars and carriages of the grantees or their assigns on the tracks of the said tramway shall, unless with the consent of the said Commissioner, be worked with horse-power, or other animal-power, only; and the said Commissioner shall have power at all times to make such regulations as to the rate of speed and mode of use of the said tracks as the convenience and safety of the public using the streets may require.

4. The said grantees or their assigns shall have power, from time to time to fix the rates of fares for carrying persons and goods in the cars or carriages to be run on the said tramways, provided that the rates of fares, on at least one-half of the cars or carriages available for passengers which daily run on the said tracks, shall for any distance not over three miles not exceed three annas, and be for any greater distance in the same proportion.

5. The said grantees or their assigns may, for the purpose of constructing and maintaining such tramways, under such superintendence as is hereinafter specified, open and break up the soil and pavement of the several streets and bridges in the town and island of Bombay, and thereon lay sleepers and rails, and from time to time repair, alter or remove the same; and may, for the purposes aforesaid, remove and use all earth and materials in such streets and bridges; and the said grantees and their assigns may, in and on such streets and bridges, do all other acts which they shall from time to time deem necessary for constructing and maintaining street-tramways in the said town and island of Bombay, doing as little damage as may be in the execution of the powers hereby granted, and making compensation for any damage which may be done in the execution of such powers.

6. Before the said grantees or their assigns proceed to open or break up any street or bridge other than those referred to in clause 1, they shall obtain the approval in writing of the said Commissioner to the tracks of the said tramway being laid down on the said street or bridge; and shall give to the

said Commissioner, or the executive engineer or other municipal officer, notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work, except in cases of emergency arising from defects in any of the rails or other work, and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen.

7. No such street or bridge shall, except in the cases of emergency aforesaid, be opened or broken up except under the superintendence of the said Commissioner or of his officer, and according to such plans as shall be approved of by him or them: Provided always that, if the said Commissioner or his officer fail to attend at the time fixed for the opening of any such street or bridge after having had such notice of the said grantees' or their assigns' intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said grantees or their assigns may perform the work specified in such notice without the superintendence of such officer.

8. When the said grantees or their assigns open or break up the road or pavement of any street or bridge, they shall, with all convenient speed, complete the work for which the same shall be broken up, and fill in the ground and make good the road or pavement so opened or broken up, and carry away the rubbish occasioned thereby, and deposit the same for the use of the Commissioner at such place as the executive engineer of the said municipality shall direct; and shall, at all times whilst any such road or pavement shall be so opened or broken up, cause the same to be guarded, and shall cause a light, sufficient for the warning of passengers, to be set up and maintained against or near such road or pavement where the same shall be open or broken up every night during which the same shall be continued open or broken up.

9. If the said grantees or their assigns open or break up any street or bridge without giving such notice as hereinbefore mentioned, or in a manner different from that which shall have been approved of or determined as aforesaid, except in the cases in which the said grantees or their assigns are hereby authorized to perform such work without any superintendence or notice; or if the said grantees or their assigns shall make any unnecessary delay in completing any such work, or in filling in the ground, or reinstating and making good, so far as is consistent with the existence of the said tramway, the road or pavement so opened or broken up, or in carrying away the rubbish occasioned thereby; or if they neglect to cause the place where such road or pavement has been broken up to be guarded and lighted—they shall forfeit to the said Justices a sum not exceeding fifty rupees for every such offence, and they

shall forfeit an additional sum not exceeding fifty rupees for each day during which any such delay or neglect as aforesaid shall continue after they shall have received notice thereof.

10. The said grantees or their assigns shall maintain and keep in repair such portion of the streets and bridges in the town and island of Bombay as shall be occupied by their tracks, including therein not only the space between the tracks, but eighteen inches on either side thereof, and in consideration of such maintenance of streets and bridges, and of the yearly rent hereinafter mentioned to be paid by the grantees, the horses and carriages and other vehicles of the said grantees shall be exempt from municipal taxation.

11. If any unnecessary delay or omission shall take place by the said grantees or their assigns in complying with any order which may be made on them by Government for the removal of the said track proposed to be constructed along Sayad Abdul Rahmán Street as hereinbefore mentioned, or otherwise in acting in accordance with the proviso hereinbefore contained regarding that track, or in the performance of any of the works specified in clause 8 of these presents, or in filling in the ground, or reinstating and making good the road or pavement so opened or broken up, or in carrying away the rubbish occasioned thereby; or if they neglect to cause the place, where such road or pavement has been broken up, to be guarded and lighted, or neglect to maintain and keep in repair the portion of the roads or bridges which shall be occupied by their tracks—the said Commissioner may cause the work so delayed or omitted to be executed, and the expense of executing the same shall be repaid to him by the said grantees or their assigns, and the certificate in writing of the Commissioner as to the expense so incurred shall be conclusive and the said grantees shall not be at liberty to dispute the same.

12. The said grantees or their assigns shall be liable for any loss or injuries that any person may sustain by reason of any defect or want of repair in any of the plant or other property of the said grantees, or of any carelessness, neglect or misconduct of their agents or servants in the management, construction or use of the said tracks or tramways; and, in case any recovery shall be had against the said Commissioner or the said Justices by reason of such defect or other matter aforesaid, the said grantees or their assigns shall be liable to pay to the said Commissioner or the said Justices as the case may be, any sums thus recovered against him or them, together with all costs and reasonable expenditure incurred by the said Commissioner or the said Justices in the defence of any such suit or suits in which such recovery shall be had.

13. Nothing in this agreement shall be construed to prevent the said Commissioner from taking up any of the public streets or roads traversed by the said tramway for the purposes for which he may now lawfully take up the same.

14. If at any time after the opening of any tramway for traffic the grantees shall discontinue the working of such tramway, or any part thereof, for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the grantees), it shall be lawful for the Commissioner, without any previous notice to the grantees, to remove the tramway, or part of the tramway, so discontinued, and the grantees shall pay to the Commissioner the cost of such removal and of the making good of the street; and the certificate of the Commissioner as to such cost shall be conclusive.

15. The provisions of this agreement shall remain and be in force for a term not less than twenty-one years from the date thereof. The Corporation shall have the right of purchasing the said tramways, with the plant, stores, rolling-stock, and everything connected therewith, after the expiration of the said twenty-one years, upon declaring its intention so to do within six months after the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years upon similar notice being given; the amount to be paid in the event of such purchase shall be actual *bonâ fide* value, exclusive of any compensation for good-will, premium, compulsory sale or other consideration whatsoever, of the tramways, and of the work and materials connected therewith, and of the lands and buildings and all other property of the grantees, such value, in case the parties do not agree, to be decided by arbitration as hereinafter provided; and for the good-will, premium, compulsory sale, and other consideration of the business of the grantees, an amount equal to twenty-one years' purchase, calculated on the average profits of the previous three years, four per cent. per annum on the above value as paid being first deducted from such profits.

16. The provisions hereinbefore contained shall, so far as applicable, apply to all tramways to be constructed by the said grantees or their assigns by any route or routes to be hereafter fixed by the Commissioner or under clause 1 of these presents, and to the works connected with, or incidental to, such tramways, it being agreed that, in the event of the municipality failing to declare its intention, as above provided, to purchase the property of the said grantees, the terms of this contract shall continue in force.

17. The said grantees or their assigns will, if required by the said Commissioner, before opening and breaking up the soil and pavement of any street or bridge under clause 5 of these presents, deposit with the Bank of Bombay in the name of the said Commissioner, the sum of rupees 5,000 or, in their option, promissory notes of the Government of India of the nominal value of rupees 5,000, and the same will remain so deposited until the completion by the said grantees or their assigns of the abovementioned lines of tramway herein sanctioned for immediate construction. All interest accruing on the said sum or the said notes shall be credited to the said grantees or their assigns, and, subject as next hereinafter mentioned, be paid to them as the same accrues due. The said Commissioner shall be entitled to deduct all fines recovered by him out of the sum so deposited, or the interest accruing on the said sum or notes, or out of the proceeds of sale of a portion of the said notes on completion of the said tramways as specified in clause 1 of this agreement.

18. In consideration of the concession herein granted, the said grantees undertake, on behalf of themselves and their assigns, that they will pay to the Municipal Corporation of Bombay a yearly rent of Rs. 2,000 per mile of double track and Rs. 2,000 per mile of single track, payable half-yearly ; the date on which such rent on each line of tramways shall begin to accrue shall be the date on which such line of tramways is opened for public traffic.

19. It is agreed that no sidings, turn-outs or tracks necessary to connect the traffic-lines with the stables, carriage-sheds, factories, or other property or properties of the grantees shall be included in the mileage on which rent is to be paid ; such sidings, turn-outs and necessary connecting tracks being free of rent.

20. The sleepers, rails, materials, implements and other erections placed and erected by the said grantees on the streets or roads under the powers hereby granted shall be and remain the property of the said grantees, and the said grantees shall have the exclusive use of their tramway or tramways for carriages with flanged wheels or other wheels suitable only to run on the prescribed rail.

21. The grantees shall have the exclusive right of laying and using tramways within the limits of the Bombay Municipality on the terms herein stated ; but, in the event of the grantees refusing to lay down any line which the Municipal Commissioner may consider necessary, he shall be at liberty to grant the right of laying and using such line to any other party.

22. Unless the said grantees shall have commenced the work of laying down the said tramways within twelve months from the date of the execution

of these presents, the Municipal Commissioner shall be at liberty to cease and determine this contract, and to enter into arrangements with any other person or persons for the construction of tramways, it being agreed, however, that these presents are subject to the sanction of Government, and that in the event of their being executed prior to such sanction being given, the said twelve months shall date from the day on which notice of such sanction is given to the said grantees: Provided also that any delay in commencing the work beyond twelve months shall not have been due to any cause beyond the control of the grantees.

23. If any doubt, difference or dispute shall arise between the grantees their heirs, executors or administrators, and the said Justices or their successors, touching the construction of these presents or anything herein contained or touching or concerning any other matter or thing relating to these presents, then, and in every such case, such doubt, difference or dispute shall be referred to the arbitration of three indifferent persons, one to be from time to time chosen by the said grantees and another by the said Justices, within one calendar month after either of them shall have made to the other a requisition to that effect, and the third to be named by the two persons from time to time first chosen; and the decision of such arbitrators if they agree, or of such umpire if they disagree, shall be final; and in case either party shall neglect or refuse to appoint an arbitrator within the specified time the arbitrator appointed by the other party shall make a final decision alone.

IN WITNESS whereof the said Municipal Commissioner, for and on behalf of the said Justices, has hereunto set his name and caused the seal of the said Justices, to be affixed hereunto, and the said WILLIAM FRENCH STEARNS and GEORGE ALVAH KITTREDGE have hereunto set their hands and seal the day and year hereinbefore written.

SPECIFICATION.

RAIL—To be similar in upper surface section to the sample submitted herewith, being similar to the rail now in general use in London and Liverpool.

GAUGE—To be 4 feet 8½ inches.

CARRIAGE.—Similar to those in use in England and America, to be furnished with a brake which can be worked at both ends of the carriage, capable of stopping the carriage within its own length.

As it has been suggested that some doubt may arise as to the meaning of the latter part of section 15 of the Articles of Agreement between the

JUSTICES OF THE PEACE FOR THE TOWN AND ISLAND OF BOMBAY and Messrs. STEARNS and KITTREDGE, we the undersigned, append the following illustration of the mode in which that section is to be construed:—

"Suppose the *bonâ fide* value fixed by arbitration of the grantees' stock is . . . . Rs. 10,00,000
4 per centum on this sum is . . . . ,, 40,000
And suppose that the average annual profits, for three years, of the grantees are . Rs. 1,00,000
Rs. 40,000 being deducted from Rs. 1,00,000 = Rs. 60,000—
Rs. 60,000 × 21 years = Rs. 12,60,000.
And the sum to be paid as purchase-money to the grantees will be—
Stock value . . = Rs. 10,00,000
Compensation for good will = ,, 12,60,000
Rs. 22,60,000

(*Signed*) W. G. PEDDER, C. S.,
Municipal Commissioner.
(*Signed*) GEO. A. KITTREDGE,
For self and W. F. STEARNS.

BOMBAY ACT No. II OF 1874.

CONTENTS.

PREAMBLE. [*Repealed.*]

PARTS I & II.

SECTIONS.
1 to 7. [*Repealed.*]

PART III.

CIVIL JAILS.

8. [*Repealed.*]
9. Civil jail to be at seat of each District Court, and may be at other places.
10. Názir of District Court to be keeper of civil jail and to have establishment under him.
11. Judge to visit civil jail.
12. Medical officer to attend jail.
Remedies administered at expense of Government.

SECTIONS.

13. Strangers may be admitted to civil jail.
14. Subsistence of prisoners in civil jail.
15. Disposal of corpse of prisoner dying in civil jail.
16. Disposal of subsistence-money in hand on prisoner's death or release. Cost of disposing of corpses and other expenses connected with civil jail to be provided by Government.

PARTS IV TO XIV.

17 to 52. [*Repealed.*]

BOMBAY ACT No. II OF 1874.[1]

[*15th January, 1875.*]

An Act for the regulation of jails in the City and Presidency of Bombay and the enforcement of discipline therein.

Preamble. [*Rep.* [2]*Act IX of 1894.*]

PARTS I AND II.

PRELIMINARY; CLASSES OF JAILS.

1 to 7. [*Rep.* [2]*Act IX of 1894.*]

PART III.

CIVIL JAILS.

8. [*Limitation of application of Part III.*] *Rep.* [2]*Act IX of 1894.*

Civil jail to be at seat of each District Court, and may be at other places.

9. There shall be a civil jail at the seat of the District Court for each district created under section 3 of [3]Act XIV of 1869 : Provided that it shall be in the power of the Governor in Council to establish [4]civil jails at other convenient places.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1873, Pt. V, p. 290; for first Report of the Select Committee, *see ibid*, 1874, p. 82; for second Report of the Select Committee, *see ibid*, p. 121, and for Proceedings in Council, *see ibid*, 1873, p. 483, and *ibid*, 1874, pp. 111, 152 and 154.

Civil jails in the Presidency of Bombay outside the city of Bombay are administered under sections 9 to 16 of this Act as amended by subsequent enactments, *see* the Prisons Act, 1894 (9 of 1894), s. 1 (4), General Acts, Vol. VI, p. 159.

Bom. Act 2 of 1874 (as amended by Bom. Act 2 of 1882) has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, p. 467, to be in force in the Island of Perim, *see* Appendix to Vol. I of this Code, p. 364.

[2] General Acts, Vol. VI, p. 159.

[3] Vol. I of this Code, p. 92.

[4] *See* Bombay Local Rules and Orders, Ed. 1898, Vol II, p. 524.

Názir of District Court to be keeper of civil jail and to have establishment under him.

10. The názir of the District Court or of the chief Civil Court at the place where the civil jail is located shall be *ex-officio* keeper of the civil jail, and shall be responsible for the safe custody of the prisoners and for the preservation of cleanliness and good order in the jail and among the prisoners, and shall have such establishment under him as the District Judge, with the sanction of the Governor in Council, may direct.

Judge to visit civil jail.

11. The Judge or the Assistant Judge of the district in which a civil jail is situated shall visit such civil jail at least once in each month, and shall issue in writing such orders connected with the economy of the jail, the good management, health and accommodation of the prisoners, as he may think fit.

He shall record the date of his visit, and any remarks he may have to make, in a book to be kept for the purpose.[1]

Medical officer to attend jail.

12. A medical officer to be appointed by the Governor in Council shall attend the civil jail, and shall be bound to offer such advice to the District Judge, or other officer in charge of the civil jail, as may seem expedient to him with regard to the sanitary state of the jail and of the prisoners.

Remedies administered at expense of Government.

He shall also administer remedies at the expense of the Government to the sick: Provided that nothing contained in this section shall prevent a prisoner in a civil jail from employing at his own expense any medical man he may think fit to consult.

Strangers may be admitted to civil jail.

13. The civil jail shall be opened daily for the admission of those wishing to visit prisoners from 9 A.M. till 3 P.M., and no stranger shall be allowed to remain in the civil jail beyond the abovementioned hours except by permission of the Judge, the Assistant Judge of the district, or on the recommendation of the medical officer by the permission of the názir in charge of the jail.

Subsistence of prisoners in civil jails.

14. *Clause 1.*—Prisoners in the civil jail may either make their own arrangements for their subsistence, or may, within the amount of subsistence-money or batta furnished by the party at whose suit they are detained, require the názir to furnish their food and other necessaries out of the subsistence-money fixed for them by the Court by which they are committed: Provided that excess in the use of intoxicating liquors or drugs be strictly prohibited. A tariff of prices approved by the District Judge on the first day of each month shall be kept in each civil jail and shall be accessible to all the prisoners.

[1] *See* Bombay Local Rules and Orders, Ed. 1898, Vol. II, p. 524.

Clause 2.—Every civil prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the názir with such clothing and bedding as may be ordered by the Judge or Assistant Judge under the provisions of section 11 of this Act.

When any such prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall be liable to pay to the názir on demand in writing the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner shall be released.

Disposal of corpse of prisoner dying in civil jail.

15. Whenever a prisoner shall die in the civil jail, the názir shall immediately report such death to the nearest Magistrate, who shall thereupon inquire into the cause of such death, and make a written report thereon to the Inspector-General of Prisons, and the corpse of such prisoner shall, after the medical officer appointed under section 12 * * [1] has certified to his death, be made over to his relatives or friends [2][if any be present and willing to take charge of it].

[3]If no relative or friend of a prisoner who has died in prison is present and willing to receive and dispose of his corpse, it shall be buried, burnt or otherwise disposed of.

Disposal of subsistence-money in hand on prisoner's death or release.

[4]**16.** If, at the time of a prisoner's death or release, any of the subsistence-money furnished by the party at whose suit such prisoner was detained remains unexpended, notice shall be forthwith given to the party paying the same, and the balance so remaining unexpended shall be returned to such party or his representatives: Provided that he or they claim payment thereof within three months from the date of such notice; failing which such balance shall become the property of Government.

Cost of disposing of corpses and other

The cost of disposing of the corpses of deceased prisoners under clause 2 of the last preceding section, and of procuring comforts for sick prisoners, and

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] These words were substituted for the words "or in failure of their taking the corpse, it shall be buried, burnt or otherwise disposed of at the expense of the Civil Jail Fund, as hereinafter provided" by s. 1, Bombay Jails Amendment Act, 1882 (Bom. Act 2 of 1882), *infra* p. 799.

[3] This clause was added by Bom. Act 2 of 1882, s. 1, *infra* p. 799.

[4] This section was substituted by s. 2 of Bom. Act 2 of 1882. The original section was as follows:—

"The balance of subsistence-money remaining in hand at the time of a prisoner's death or release shall be credited to a fund, to be called 'the Civil Jail Fund,' to be expended on the burial, cremation or disposal of those buried, burnt or otherwise disposed of at the expense of the Fund, and in procuring comforts for sick prisoners, and generally for such purposes connected with the maintenance of the Civil Jail as the Governor in Council may authorise."

generally for the maintenance of the civil jail, shall be provided by Government subject to such rules as Government may from time to time prescribe in this behalf. expenses connected with civil jail to be provided by Government.

PARTS IV TO XIV.

[CRIMINAL JAILS; SUPERINTENDENTS OF CRIMINAL JAILS, AND THEIR DUTIES; JAILORS AND THEIR DUTIES; MEDICAL OFFICER; PRISON OFFENCES; OFFENCES IN RELATION TO JAILS; VISITS TO, AND CORRESPONDENCE OF, PRISONERS; DISCHARGE OF PRISONERS; VISITORS OF JAILS; EXTRA-MURAL GANGS; MISCELLANEOUS.]

17 to 52. [*Repealed* [1]*Act IX of 1894.*]

THE BOMBAY HEREDITARY OFFICES ACT.

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BOMBAY ACT No. III OF 1874.[1]

[*5th February, 1875.*]

An Act to amend the law relating to hereditary offices.

WHEREAS it is expedient to declare and amend the law relating to hereditary offices; It is hereby enacted as follows:— Preamble.

PART I.

PRELIMINARY.

1. This Act may be called the Bombay Hereditary Offices Act. Short title.

It extends to the regulation districts and to all villages therein, whether alienated or otherwise, so far as its provisions shall not conflict with the terms on which any such alienated village may have been secured to the holder thereof.

Nothing in this Act shall affect the powers of Government to deal with any wátán or parts of wátáns, or with the profits thereof, respectively, under [2]Act No. XI of 1852 or Bombay [3]Acts Nos. II and VII of 1863, or any other law at present in force with respect thereto.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1873, Pt. V, and pp. 207 and 309, for Proceedings in Council, *see ibid*, pp. 439, 443 and 462, *ibid*, 1874, pp. 135, 148, 156 and 162.

In applying Bom. Act 3 of 1874 as amended by Bom. Act 5 of 1886, *infra*, p. 862, to Mátádárs in the districts of Ahmedabad, Kaira, Broach and Surat, and in villages in the Pánch Máhál district to which Bom. Act 6 of 1887, *infra*, p. 936, is extended,—

(1) the meaning of the terms "wátán" and "wátándár," and ss. 33, 34 and 60, are subject to modification; and

(2) ss. 24 to 31, 36 to 59, 61, 62, 67, 69 and 71, parts of s. 73, and the definitions of "wátándar" and "representative wátándár" in s. 4, are to be deemed to be repealed—*see* the Mátádars Act, 1887 (Bom. Act 6 of 1887), ss. 1 and 3, *infra*, p. 936.

Subject to the said modifications and repeals, Bom. Act 6 of 1887 is to be read as one with this Act—*see* Bom. Act 6 of 1887, s. 4. For further modifications, *see* ss. 5 *et seq.* of the latter Act.

[2] Vol. I of this Code, p. 53.

[3] *Supra*, pp. 336 and 437, respectively.

2. [*Repeal of enactments.*] *Rep. Act XII of 1876.*

Application of Parts VI, VII, VIII, and IX.

3. Parts VI, VII, VIII and IX * * *[1] shall not apply to hereditary offices of lower degree than patel or kulkarni, nor to wátáns appertaining to such offices.

Interpretation clause.

4. In this Act, unless there be something repugnant in the subject or context,—

"wátán-property" means the moveable or immoveable property held, acquired or assigned for providing remuneration for the performance of the duty appertaining to an hereditary office;

it includes a right to levy customary fees or perquisites, in money or in kind, whether at fixed times or otherwise;

it includes cash payments in addition to the original wátán-property made voluntarily by Government and subject periodically to modification or withdrawal:

"hereditary office" means every office held hereditarily for the performance of duties connected with the administration or collection of the public revenue or with the village-police, or with the settlement of boundaries, or other matters of civil administration;

the expression includes such office even where the services originally appertaining to it have ceased to be demanded:

the wátán-property, if any, and the hereditary office and the rights and privileges attached to them, together constitute the wátán:

[2]"wátándár" means a person having an hereditary interest in a wátán; it includes a person holding wátán property acquired by him before the introduction of the British Government into the locality of the wátán, or legally acquired subsequent to such introduction, and a person holding such property from him by inheritance; it includes a person adopted by an owner of a wátán or part of a wátán, subject to the conditions specified in sections 33 to 35. * * *[1]

"family" includes each of the branches of the family descended from an original wátándár: Provided that no sub-division shall be recognized except as hereinafter provided in section 26:

"head of a family" includes the chief representative of each branch of a family:

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[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule I. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] As to the local repeal of this definition, *see* first footnote on page 521, *supra*.

[1]"representative wátándár" means a wátándár registered by the Collector under section 25 * * *[2] as having a right to perform the duties of an hereditary office:

"officiator" means the person actually performing the duties of an hereditary office for the time being, whether he be a representative wátándár or a deputy or a substitute appointed under any of the provisions [3][of this Act]:

"guardian" means a relation or other person to whom the care, nurture or custody of any child falls by natural right or recognized usage, or who has accepted or assumed directly the care, nurture or custody of any child, or in case of dispute the holder of a certificate of guardianship from a competent Court.

PART II.

WÁTÁN-PROPERTY AND PROFITS THEREOF.

Prohibition of alienation of wátán and wátán rights.

[4]**5.** (*1*) Without the sanction of Government it shall not be competent—

(*a*) to a wátándár to mortgage, charge, alienate or lease, for a period beyond the term of his natural life, any wátán, or any part thereof, or any interest therein, to or for the benefit of any person who is not a wátándár of the same wátán;

(*b*) to a representative wátándár to mortgage, charge, lease or alienate any right with which he is invested, as such, under this Act.

(*2*) In the case of any wátán in respect of which a service commutation settlement has been effected, either under section 15 or before that section came into force, clause (*a*) of this section shall apply to such wátán unless the right of alienating the wátán without the sanction of Government is conferred upon the wátándárs by the terms of such settlement or has been acquired by them under the said terms.

Collector may institute legal

6. *Clause 1.*—In any case in which it shall appear to the Collector that

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[1] As to the local repeal of this definition, *see* first footnote on p. 521, *supra*.

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act I of 1904), Vol. IV of this Code.

[3] These words were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), and re-inserted by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

[4] This section was substituted by Bom. Act 5 of 1886, s. 1, *infra*, p. 862. As to postponement of female members, and as to interest of widow, *see ibid*, s. 2.

The original section was as follows: —

"No wátándár shall, without the sanction of Government, sell, mortgage, or otherwise alienate or assign any wátán or part thereof or interest therein to any person not a wátándár of the same wátán."

proceedings for protection of wátán.

the institution of legal proceedings is requisite or desirable with respect to any wátán, or the estate, property, funds or affairs thereof, the Collector shall certify such case in writing under his hand to the [1] * Commissioner, together with such statements and particulars as in his opinion may be requisite or proper for the explanation of such case, and thereupon the said [1] * Commissioner, if upon consideration of the circumstances he thinks fit, shall authorize the Collector to institute and prosecute in the name of the Collector such legal proceedings as may appear requisite or proper for the protection of the wátán, its estates, property, funds or affairs, by suit or petition in any Civil Court having jurisdiction in the matter. The cost of such proceedings, unless recovered from the opposite party, shall be paid out of the funds of the wátán.

Collector may proceed under sections 8 to 11, or 13.

Clause 2.—The Collector may, if he thinks fit, proceed as provided in sections 8, 9, 10, 11 or 13 * * *[2] in lieu of instituting or prosecuting legal proceedings under this section.

Wátán assigned as remuneration not alienable without sanction.

7. Wátán-property assigned under section 23 * * *[2] as remuneration of an officiator, and the profits of wátán property so assigned, shall not be alienated or assigned to any person whatever without the sanction of Government.

Wátán-property passed into possession of person other than officiator liable to contribution for remuneration of officiator.

8. Whenever any wátán or any part thereof, or any of the profits thereof, whether assigned as remuneration of an officiator or not, has or have before the date of this Act coming into force passed by virtue of, or in execution of, a decree or order of any British Court into the ownership or beneficial possession of any person other than the officiator for the time being, or has or have before such date passed otherwise than by virtue of, or in execution of, a decree or order of any British Court into the ownership or beneficial possession of a wátándár other than such officiator ; or

when any wátán, or part or profits thereof, not being assigned as remuneration of an officiator, has, after the date of this Act coming into force, passed by virtue of, or in execution of, a decree or order of any British Court or otherwise, into the ownership or beneficial possession of a wátándár other than such officiator ;

such wátán or any part thereof, or any of the profits thereof, shall be liable under the orders of the Collector to contribution for the remuneration

[1] The word "Revenue" was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act I of 1904), Vol. IV of this Code.

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

of such officiator in like manner and to the like extent as if no such decree had been passed or no such transfer had taken place.

Collector may declare alienation of wátán-property to be under certain circumstances null and void.

9. *Clause 1.*—Whenever any wátán or any part thereof, or any of the profits thereof, whether assigned as remuneration of an officiator or not, has or have, before the date of this Act coming into force, passed otherwise than by virtue of, or in execution of, a decree or order of any British Court, and without the consent of the Collector and transfer of ownership in the revenue-records, into the ownership or beneficial possession of any person not a wátándár of the same wátán, the Collector may, after recording his reasons in writing, declare such alienation to be null and void, and order that such wátán or any part thereof, or any of the profits thereof, shall from the date of such order belong to the wátándár previously entitled thereto, and may recover and pay to such wátándár any profits thereof accordingly.

Collector may in case of land recover full rent.

Clause 2.—If such part of a wátán be land, it shall be lawful for the Collector, instead of transferring the possession of the land, to demand and recover the full rent ordinarily paid by tenants of land of similar description in the same locality, and the amount so recovered shall be considered as the profits. The decision of the Collector as to what is the full rent shall be final.

Civil Court on Collector's certificate to remove attachment on wátán-property assigned as remuneration of officiator.

10. When it shall appear to the Collector that by virtue of, or in execution of, a decree or order of any British Court any wátán or any part thereof, or any of the profits thereof, recorded as such in the revenue-records or registered under this Act, and assigned under section 23 * * *[1] as remuneration of an officiator, has or have after the date [2][of this Act] coming into force, passed or may pass without the sanction of Government into the ownership or beneficial possession of any person other than the officiator for the time being; or that any such wátán or any part thereof, or any of the profits thereof, not so assigned, has or have so passed [3][or may pass] into the ownership or beneficial possession of any person not a wátándár of the same wátán, the Court shall, on receipt of a certificate under the hand and seal of the Collector, stating that the property to which the decree or order relates is a wátán or part of a wátán, or that such property constitutes the profits or part of the profits of a wátán, or is assigned

[1] The words "of this Act" were repealed by the General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] These words were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), and re-inserted by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 223.

[3] These words were inserted by the Bombay Hereditary Offices Amendment Act, 1886 (Bom. Act 5 of 1886), Vol. IV, *infra*, p. 862.

as the remuneration of an officiator, and is therefore inalienable, remove any attachment or other process then pending against the said wátán or any part thereof, or any of the profits thereof, and set aside any sale or order of sale or transfer thereof, and shall cancel the decree or order complained of so far as it concerns the said wátán or any part thereof, or any of the profits thereof.'

Collector may declare null and void alienation of wátán-property made after passing of Act.

11. When any alienation of the nature described in section 10 * *[1] shall take place otherwise than by virtue of, or in execution of, a decree or order of any British Court, the Collector shall, after recording his reasons in writing, declare such alienation to be null and void [2]* * * * * * * * * * *.

Resumption of property to which an order made under section 10 or section 11 applies.

[3]**11A.** The Collector shall either summarily resume possession of all property to which an order of a Court passed on receipt of his certificate under section 10, or his own declaration under section 11, relates, or assess it at the rate prescribed in clause (*2*) of section 9, as he may think fit, and the said property shall thenceforward revert to the wátán.

Powers of Collector to carry out provisions of sections 8, 9 and 11.

12. It shall be lawful for the Collector, whenever it may be necessary, in carrying out the provisions of sections 8, 9, and 11 * * *[1]—

(*a*) to summarily evict any person wrongfully in possession of any land, or

(*b*) to levy any rent due by any person in the manner that may be prescribed in any law for the time being in force for the levy of a revenue demand.

Wátán assigned as remuneration not liable to process of Court.

13. Wátán-property assigned as remuneration of an officiator under section 23 * * *[1] and the profits of such wátán-property are not liable to process of any Civil Court.

On receipt of a certificate under the hand and seal of a Collector, to the effect that certain property designated therein is wátán-property so assigned, the Court shall remove any attachment or other process placed on, or set aside any sale of, or affecting, such property or the profits thereof.

Combination of hereditary offices.

14. *Clause 1.*—It shall be lawful for a Collector, for reasons to be stated in writing, to combine two or more wátáns held for the performance of similar services in the same village or parts of the same village.

Clause 2.—[*Validation of prior combinations.*] *Rep.* [4]*Act XVI of 1895.*

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[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words "and shall either summarily resume possession of such property, or assess it at the rate prescribed in section 9, clause 2, of this Act, as he may think fit, and it shall thenceforward revert to the wátán," were repealed by s. 4, Bom. Act 5 of 1886, *infra*, p. 862.

[3] Section 11A was inserted by Bom. Act 5 of 1886, *supra*, p. 862.

[4] Vol. I of this Code, p. 223.

PART III.

Commutation of Wátáns.

Commutation of service.

15. *Clause 1.*—The Collector may, with the consent of the holder of a wátán, given in writing, relieve him and his heirs and successors in perpetuity of their liability to perform service upon such conditions, whether consistent with the provisions of this Act or not, as may be agreed upon by the Collector and such holder.

Clause 2.—[*Validation of prior settlements.*] *Rep. Act XVI of 1895.*

Settlement on whom to be binding.

Clause 3.—Every settlement made or confirmed under this section shall be binding upon both Government and the holder of the wátán and his heirs and successors.

Who is a "holder."

Clause 4.—The word "holder," for the purposes of this section, includes any sole owner or the whole number of joint owners or any person dealt with as representative of the persons beneficially interested or entered as such in the Government records at the time of the settlement.

Rights of individuals to exact customary service from village-servants not affected.

16. Nothing in the last preceding section shall be held to affect any rights of individuals or village-communities to exact such service as may be customary from village-servants whose wátáns were originally granted or are now held for the performance of such service, but who have been relieved by Government of liability to perform such service to the State.

Assessment of amount of payments in alienated villages.

17. When all or any of the property of a wátán consists of payments of whatever description, whether in money or kind, made by jágirdárs, inámdárs, mehwassi chiefs, or others owning or occupying immoveable property wholly or partially free from assessment, the Collector may from time to time determine the amount of such payments recoverable: Provided that no larger demand shall be made than one equivalent to the amount that would be payable under the scale in force for the time being in the case of Government villages.

Appointment of panchâyat to define rights and duties of certain classes of wátándárs.

18. When all or any of the property of a village-wátán of lower degree than that of patel or kulkarni consists of a right to levy in money or kind directly from individuals, it shall be lawful for the Collector, on the application of any person interested, to cause the nature and extent of such right and of the duties to be performed, and the persons, families or classes liable to make payment and to perform the duties, to be defined in writing by a panchâyat of five persons, whereof two shall be appointed by the villagers, two by the wátándárs, and one, who shall be sar-pánch, by the Collector.

The decision shall be in accordance with the opinion of the majority of the panchâyat: Provided that, in case the villagers or the wátándárs fail to nominate members within seven days, the Collector shall appoint such members as may be required to constitute a panchâyat of five:

[1] The villages of certain of these Chiefs are Scheduled Districts, *see* the Scheduled Districts Act, 1874 (2 of 1874), General Acts, Vol. II, and the Appendix to Vol. I of this Code.

Provided also that, in case the panchâyat do not come to a decision within seven days from the appointment of the sar-pánch, the Collector may himself pass a decision.

The decision of the panchâyat or of the Collector, as above provided, shall be final and binding on all persons or classes whose rights, duties or liabilities have been submitted to such decision.

Mode of fixing amount payable when profits of wátán fluctuate.

19. Whenever, on failure of the punchâyat to come to a decision, the Collector, acting under the last preceding section, passes a decision, and it appears that the profits of the wátán or part thereof are of fluctuating amount, or are payable in kind, it shall be lawful for the Collector to determine the amount payable and to decide whether the payment shall be made in kind or money.

Validity of settlements made prior to passing of Act.

20. Any settlement of the nature described in section 17, 18 or 19 * * *[1] made before the date of this Act coming into force, by a Collector or other officer duly authorized by Government, shall have the same force as if made under this Act.

Settlements for such period as Government may direct.

21. Settlements of the nature described in sections 17, 18 and 19 * * *[1] made after this Act comes into force, shall be made for such periods as the Governor in Council may from time to time direct.

PART IV.

Creation and Lapse of Wátáns.

Creation of new wátáns.

22. When no wátán exists, it shall be lawful for Government to create one, and in so doing to assign, subject to such sanction as may be required by any law, or order of the Governor General of India in Council, for the time being in force, such property of Government as to Government may seem fit.

Such wátán shall be subject to all the provisions of this Act, and the wátándárs shall exercise the powers and perform the duties conferred and imposed by this Act or any other law for the time being in force.

When a wátán or part of a wátán has lapsed or has been confiscated or otherwise lawfully resumed by Government, or when the right of any particular family to hold a wátán does not exist or is not established, it shall be lawful for Government, subject to the sanction mentioned in the first clause of this section, to assign such wátán or part of a wátán to such person or persons as to Government may seem fit.

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[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

PART V.

Remuneration of Officiators.

23. Subject to the provisions of this Act and of any other law for the time being in force regarding service-ináms, cash allowances and pensions, it shall be the duty of the Collector to fix the annual emoluments of officiators appointed under the provisions of this Act, and to direct the payment thereof to the officiators for the time being. Collector to fix emoluments of officiators.

It shall be lawful for the Collector for this purpose to assign wátán property, or the profits thereof, towards the emoluments of officiators. Collector may assign wátán property for purpose.

The existing assignments shall, until altered by competent authority, be taken to have been made under this section.

With the sanction of Government the Collector may, as occasion arises, alter the assignment and may increase or diminish it in value, such increase or diminution being made rateably among the holders in proportion to the profit derived by such holders respectively from the wátán.

PART VI.

Representative Wátándárs.

[1]**24.** The duties appertaining to any hereditary office shall be performed by the representative wátándárs or by deputies or substitutes as hereinafter provided, and by no other persons. Duties to be performed by representative wátándárs.

[1]**25.** It shall be the duty of the Collector to determine, as hereinafter provided, the custom of the wátán as to service and what persons shall be recognized as representative wátándárs for the purpose of this Act, and to register their names. Determination and registration of representative wátándárs.

[1]**26.** In determining what heads of families shall be recognized as representative wátándárs and what is the custom of the wátán as to service the Collector shall inquire into and take into consideration the practice heretofore observed from the earliest period for which there are records or other evidence available : Previous practice to be considered in determining who are representative wátándárs.

Provided that he shall not be bound to recognize appointments or subdivisions which have been made subsequently to the introduction of [2]Act No. XI of 1843, and which he considers to be contrary to the custom of the wátán.

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[1] As to the local repeal of ss. 24 to 28, *see* first footnote on p. 521, *supra*.
[2] Act 11 of 1843 was repealed by s. 2 of this Act.

Registration of head of family as sole representative wátándár.

[1] **27.** If it shall appear to the Collector that the custom has been for a member of one family only to serve, the Collector shall register the name of the head of such family only as the representative wátándár and no other person.

Registration of heads of families as representative wátándárs.

[1] **28.** If it shall appear to the Collector that the custom has been for a member of each of several families to perform the duties either contemporaneously or for successive periods, the Collector shall register the name of the head of each of such families as representative wátándárs and no other persons, and, where the practice of service in successive periods is proved to exist, he shall decide the order in which the representative wátándárs shall officiate.

Registration of head of eldest family as sole representative wátándár.

[1] **29.** *Clause 1.*—Where the practice of service in successive periods appears to have existed, but is not proved to the satisfaction of the Collector to have existed at the date of the introduction of [2]Act No. XI of 1843 or when the practice of selection by the Collector from several families prevails, he shall determine who is the head of the eldest family descended from the original wátándár, and shall register his name as sole representative wátándár.

Registration of heads of separate families as representative wátándárs.

Clause 2.—In cases where such several families are not descended from a common ancestor, the Collector shall register as representative wátándárs the heads of such families, and establish the practice of service in successive periods.

Registration as representative wátándár of head of each family in amalgamated wátán.

[1] **30.** When the practice of service in successive periods has been introduced under the British rule, in consequence of the reduction in the number of [3][officiators] or the amalgamation of wátáns by Government, the head of each family that formerly officiated shall be separately entered as a representative wátándár.

Procedure if heads of families agree as to who are representative wátándárs.

[1] **31.** But, if in any case described in section 29 * * [4] the heads of families at any time before the completion of the register prescribed by this Act agree unanimously in writing, or have in writing agreed during the inquiry made in the preparation of the existing registers, as to who are the representative wátándárs, and as to the order of service, then the register prescribed in this Act shall be prepared in accordance with such agreement.

Right of service to remain

32. When wátán property or profits have been voluntarily relinquished

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[1] As to the local repeal of ss. 27 to 31 *see* first footnote on p. 521, *supra*.

[2] Act 11 of 1843 was repealed by s. 2 of this Act.

[3] "Officiators" was substituted for "sharers" by s. 6 of the Bombay Hereditary Offices Amendment Act, 1886 (Bom. Act 5 of 1886), p. 863, *infra*.

[4] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act I of 1904), Vol. IV of this Code.

without abandonment of right of service, such right of service shall be dealt with as if the wátándárs were still in receipt of such emoluments. after relinquishment of property.

Notice of adoption if heir has been adopted prior to passing of Act.

[1] **33.** In any case in which, before the coming of this Act into force, any registered representative wátándár or his widow shall have adopted an heir, notice of the same shall, within twelve months from the coming into force of this Act, be given by or on behalf of such adopted heir to the Collector, who shall register the name of such heir accordingly.

But if such adoption shall be shown to have been or shall subsequently be set aside by decree of a competent Court, the Collector shall remove such name from the register.

Notice of adoption when heir adopted after passing of Act.

[1] **34.** In any case in which, after the coming of this Act into force, any registered representative wátándár or his widow shall adopt an heir, report of such adoption shall within three months be made to the Collector by such wátándár, or by his widow, or in case of their death then by such adopted heir, or by the guardian of the latter, and the Collector shall register the name of such heir accordingly.

But if such adoption shall subsequently be set aside by decree of a competent Court, the Collector shall remove such name from the register.

Procedure if notice of adoption not duly given.

35. In any case in which [2][notice or] report of such adoption shall not be made as herein directed, the Collector shall not recognize the same without the production of a certificate of heirship, or of a final decree of a competent Court establishing the validity of such adoption.

Death of representative wátándár to be reported; name of heir to be registered.

[1]**36.** When any representative wátándár dies, it shall be the duty of the patel and village-accountant to report the fact to the Collector; and the Collector shall, if satisfied of the truth of the report, register the name of the eldest son or other person appearing to be nearest heir of such wátándár as representative wátándár in place of the wátándár so deceased.

A certificate of heirship or a decree of a competent Court shall, until revoked or set aside, be conclusive proof of the facts stated or determined in such certificate or decree.

Guardian of minor wátándár to perform duties of minor.

[1] **37.** When any head of a family or representative wátándár is under the age of eighteen years, his guardian may, subject to the provisions of section 51 * * *[3], exercise all powers and perform all duties conferred and imposed by this Act.

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[1] As to the local modification of ss. 33 and 34 and local repeal of ss. 36 and 37, *see* first footnote on p. 521, *supra*.

[2] These words were inserted by s. 7 of the Bombay Hereditary Offices Amendment Act, 1886 (Bom. Act 5 of 1886), p. 863, *infra*.

[3] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

PART VII.

PERIODS OF SERVICE.

Representative wátándárs to serve for life or for fixed periods of five or ten years.

[1]**38.** Subject to the provisions of sections 45 and 46, representative wátándárs shall be entitled to office for the following periods, respectively, (namely) :—

(*a*) in cases falling under section 28 or section 29, clause (*2*), or section 30 or section 31, in which the representative wátándárs are entitled to office contemporaneously, and in cases falling under section 27 or section 29, clause (*1*), } for life.

(*b*) in cases falling under section 28 or section 29, clause (*2*), or section 30 or section 31, in which the representative wátándárs are entitled to office in successive periods, } for such period as the Collector shall in each case determine, the same being not less than five nor more than ten years.

Procedure on death of officiator.

[2]**39.** In the event of the officiating wátándár dying before the expiration of his fixed period of service, his heir shall, subject to the provisions of Part VIII * * *[3] be entitled to officiate for the remainder of that period.

Election of officiator in rotation wátán.

[2]**40.** *Clause 1.*—In the case of a wátán in which the representative wátándárs are entitled to perform the duties in successive periods, the Collector shall, on the occurrence of the turn of any such representative wátándár to perform the duties, issue a notice to the whole body of registered representative wátándárs calling upon them to appear before him at a certain time and place to elect an officiator, or such number of officiators as may be required by the Collector under the provisions of section 43[3] * * *.

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[1] Section 38 was substituted by s. 8 of the Bombay Hereditary Offices Amendment Act, 1886 (Bom. Act 5 of 1886), *infra*, p. 863. As to the local repeal of s. 38, *see* first footnote on p. 521, *supra*.

The original section was as follows : —

"The periods during which a representative wátándár shall perform the duties shall be as follows : —

In wátáns registered under section 27, the first clause of section 29, and section 31 of this Act the period of service shall be for life.

In wátáns registered under section 28, the second clause of section 29, and section 30 of this Act, the period of service, if contemporaneous, shall be for life, and if in successive periods, the period shall be fixed at the discretion of the Collector, but for a Patel shall be not less than ten years and for a Kulkarni not less than five years."

[2] As to the local repeal of ss. 39 and 40, *see* first footnote on p. 521, *supra*.

[3] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 188), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

Clause 2.—If not less than three-fourths, including the wátándár whose turn it is to officiate, of the representative wátándárs appear at the appointed time and place and unanimously nominate a fit and proper person or persons being a wátándár or wátándárs of the same wátán, the person or persons so nominated shall be entitled to officiate in the place and for the period of service of the representative wátándár whose turn it is to perform the duties.

Clause 3.—If the person or persons so nominated be other than the representative wátándár whose turn it is to perform the duties, he or they shall, for all the purposes of this Act, be deemed to be the duly appointed deputy or deputies of the said representative wátándár.

Mode of appointment if representative wátándárs fail to nominate officiator.

[1] 41. If, in the case of a wátán in which the representative wátándárs are entitled to perform the duties in successive periods, the representative wátándárs shall not appear at the time and place appointed under the provisions of the last preceding section, or shall fail to nominate an officiator, or the requisite number of officiators, unanimously, then the provisions of this Act as to service by the representative wátándár entitled to officiate and as to appointment of deputies shall apply.

PART VIII.

Officiating Wátándárs and Deputies.

Representative wátándár to perform duties of office.

[1] 42. Every representative wátándár whose duty it is to officiate shall, if a fit and proper person, perform the duties of the hereditary office himself on being so required by the Collector, but may be permitted by the Collector to appoint a deputy.

Collector to determine number of officiators required.

[1] 43. The Collector shall determine the number of officiators required for the proper performance of the duties of any office from time to time, and for this requirement may call upon the representative wátándár aforesaid to appoint a sufficient number of fit and proper persons as deputies, or may direct service in successive periods by representative wátándárs who have hitherto served or are serving contemporaneously.

Collector to appoint deputy if wátándár fails.

[1] 44. If any requisition of the Collector under section 42, 43, 46 or 48 * * *[2] is not complied with within two months from the date thereof, the Collector may himself appoint a deputy or deputies.

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[1] As to the local repeal of ss. 41 to 44, *see* first footnote on p. 521, *supra*.

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904) Vol. IV of this Code.

Collector when to refuse service of representative wátándár or of deputy nominated by him.

[1] **45.** The Collector shall refuse to accept the service of any representative wátándár or of any person nominated by a representative wátándár to be his deputy, if such representative wátándár or person—

(*a*) is under eighteen years of age;

(*b*) has not passed such educational test, if any, as Government think fit from time to time to prescribe in this behalf;

(*c*) has attained sixty years of age, except when such person's appointment or continuance in office is specially permitted by the Collector;

(*d*) is in the opinion of the Collector disabled by lunacy or imbecility of mind, or by deafness, blindness or other permanent infirmity of body;

(*e*) as been adjudged by the Collector after a summary inquiry held in accordance with the provisions relating to summary inquiries contained in the [2]Bombay Land-revenue Code, 1879, to be of general bad character; Bom. V of 1879.

(*f*) has been sentenced by a Criminal Court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, and whose disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf;

(*g*) declines to forsake, whilst officiating, some other employment which is in the opinion of the Collector, incompatible with the due discharge of the duties of the office.

Procedure when representative.

[3] **46.** If a representative wátándár whose duty it is to officiate is, or at any time becomes, unfit to officiate for any of the reasons set forth in the

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[1] Section 45 was substituted by s. 9 of the Bombay Hereditary Offices Amendment Act, 1886 (Bom. Act 5 of 1886), *infra*, p. 863. As to the local repeal of s. 45, *see* first footnote on p. 521, *supra*. The original section was as follows:—

"The Collector may refuse to accept the service of any representative wátándár whose duty it is to officiate, or of any deputy nominated by him, if the Collector has good reason to believe after due inquiry that such wátándár or deputy is of known bad character, or is unfit, by reason of physical or mental inability, or by reason of other employment or calling, to perform efficiently the duties of the office."

[2] *Infra*, p. 631.

[3] Section 46 was substituted by s. 10 of the Bombay Hereditary Offices Amendment Act, 1886 (Bom. Act 5 of 1886), *infra*, p. 863. As to the local repeal of s. 46, *see* first footnote on p. 521 *supra*. The original section was as follows:—

"In the event of any representative wátándár whose duty it is to officiate being or becoming unfit by reason of other employment or calling, or physical incompetency, the Collector shall call upon him to appoint a deputy, and in case of his mental incompetency shall himself appoint a deputy. In the event of a deputy so becoming unfit, the representative wátándár, unless himself mentally incompetent, shall be called upon to appoint another deputy in his place."

last preceding section, the Collector shall call upon him to appoint a deputy, or, if he is disabled by lunacy or imbecility of mind, the Collector shall himself appoint a deputy. wátándár or his deputy is unfit to officiate.

If a deputy so appointed becomes unfit to officiate for any of the reasons aforesaid, the Collector shall call upon the representative wátándár to appoint another, or himself appoint another, as the case may be.

A deputy appointed by a representative wátándár may at any time be removed from office by the Collector at the request of the representative wátándár, if, in the opinion of the Collector, there are good grounds for such request.

[1]47. Whenever a representative wátándár whose duty it is to officiate ceases to be disqualified under the provisions of sections 45 and 46 * * *[2] he shall become entitled, if otherwise fit, to serve in person or to appoint a deputy in supersession of any deputy appointed by the Collector. On cessation of disqualification, representative wátándár entitled to serve.

[1]48. In the case of any nomination of a deputy, the Collector shall allow a second nomination to be made in case of his rejecting the first nomination, and, if he shall reject the second nomination, he shall himself appoint a deputy. Second nomination of deputy.

[1]49. The representative wátándár whose duty it is to officiate may himself, if otherwise fit, perform the duties in place of any deputy removed or rejected by the Collector, or deceased. Representative wátándár may officiate for deputy removed.

[1]50. When a representative wátándár has been rejected as being of [3][general] bad character, or removed on account of grave misconduct under the provisions of section 58, * * *[2] the Collector himself may nominate and appoint a deputy. Collector may nominate deputy if representative wátándár rejected or removed.

[1]51. No female shall perform in person the duties of any hereditary office; but if a representative wátándár, or the guardian of a representative wátándár, she may appoint a deputy. Female cannot officiate, but may nominate deputy.

[1]52. During the suspension of an officiating representative wátándár or deputy, and during any vacancy, the duties shall temporarily be performed by a substitute, whether a wátándár or not, appointed by the Collector. Collector to appoint deputy when officiator suspended.

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[1] As to the local repeal of ss. 47 to 52, *see* first footnote on p. 521, *supra*.

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[3] The word "general" was substituted for the word "known" by s. 11 of the Bombay Hereditary Offices Amendment Act, 1886 (Bom. Act V of 1886), *infra*, p. 863.

Deputy must ordinarily be a member of the same family as the representative wátándár whose duty it is to officiate.

[1] [2] **53.** Except as is otherwise provided in the last preceding section and in section 56, and, except as the Governor in Council shall by a general or special order from time to time otherwise direct, every deputy appointed under this Act shall be a member of the same family to which the representative wátándár whose duty it is to officiate belongs, if there be a member of such family fit and willing to officiate.

If a representative wátándár declines to appoint as his deputy any such person as aforesaid, the appointment shall be made by the Collector.

Term of appointment of deputy.

[1] **54.** When the Collector appoints a deputy, it shall be for a term not exceeding five years.

When a wátándár entitled to officiate appoints a deputy, it shall be for a term not less than five years, or for life.

The term of appointment of a deputy shall cease and determine on the right of his principal ceasing, or on the death of his principal, and any appointment of a deputy on behalf of a representative wátándár under the age of eighteen years shall terminate on the attainment by such representative wátándár of that age.

Officiator if absent or ill may appoint substitute.

[1] **55.** In the event of temporary absence or illness, an officiator may arrange with any fit person for the temporary conduct of the duties, but shall be liable in the penalties prescribed in sections 57 to 61. * * *[3]

Head of family when to be treated as wátándár.

[1] **56.** When the hereditary right to perform the duties of an hereditary office as deputies of the original wátándar is vested in a family distinct from that of the original wátándár, the custom shall be recognized, and the heads of the family entitled to perform the duties shall be registered and treated as representative wátándárs.

PART IX.

PENALTIES.

Punishment of officiators.

[1] **57.** It shall be lawful for the Collector to suspend any officiator from office during inquiry into alleged misconduct, and to punish any such officiator

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[1] As to the local repeal of ss. 53 to 57, *see* first footnote on p. 521, *supra*.

[2] Section 53 was substituted by s. 12 of the Bombay Hereditary Offices Amendment Act, 1886 (Bom. Act 5 of 1886), *infra*, p. 863.

The original section was as follows:—

"In all other cases, except as provided in section 58 of this Act, none but a wátándár shall be appointed as deputy, whether by the Collector or any representative wátándár if there be a wátándár of the same wátán fit and willing to serve, and in the event of the representative wátándár declining to appoint a wátándár as his deputy, the Collector shall himself appoint one.

"When the Collector himself appoints a deputy under the provisions of section 50 of this Act, he may, if Government so direct, appoint other than a wátándár."

[3] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

for misconduct or neglect of duty by suspension from office for a period not exceeding six months, or by fine not exceeding the fourth part of the annual emolument provided for the officiator.

The order of the Collector shall be final in such cases, except when the penalty is inflicted on an hereditary district-officer.

Collector may remove officiator with sanction of Government.

[1] **58.** It shall be lawful for the Collector, with the previous sanction of Government, in case of fraud, the wilful framing of incorrect records, habitual neglect of duty, or other grave misconduct on the part of an officiator, to remove him from office.

Officiator removed from office ineligible for re-employment.

[1] **59.** Whoever is removed from office under the preceding section shall be ineligible for re-employment or continuance in any hereditary office, except with the sanction of Government, and in case he be a representative wátándár, and his period of performing the duties recurs, the appointment of a deputy under the provisions of Part VIII * * *[2] shall, on the recurrence of such period, be made by the Collector and not by him.

Government may direct forfeiture of a wátán.

[3] **60.** When any representative wátándár, or any deputy or substitute appointed by him, is convicted by a Criminal Court, not inferior to a Court of Session, of any offence in the discharge of his official duties, or of any of the offences specified in the second schedule, or of the abetment of any such offence, and such conviction is not subsequently reversed or quashed, the Governor in Council may direct the forfeiture of the whole or of any part of the wátán. Such forfeiture may be either absolute or for such period as the Governor in Council thinks fit.

Forfeiture of life-interest of officiator and deputy for misconduct of deputy.

[1] **61.** All deputies appointed under this Act shall be subject to the same rules in the performance of the duties of their offices, and to the same penalties, except as otherwise provided, as the representative wátándárs themselves are subject to when officiating, and, in the case specified in section 58 of this Act, it shall be lawful for Government to direct the forfeiture of the life-interest in the wátán of the representative wátándár entitled to officiate, whether the officiator, guilty of misconduct, be such representative wátándár himself or a deputy appointed by him.

Order to be passed after investigation.

[1] **62.** No order shall be passed under this Part except upon perusal of the judgment of a Court or after investigation recorded in writing.

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[1] As to the local repeal of ss. 58, 59, 61 and 62, *see* first footnote on p. 521, *supra*.

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[3] Section 60 was substituted by s. 13 of the Bombay Hereditary Offices Amendment Act, 1886 (Bom. Act 5 of 1886), *infra*, p. 863. As to the modification of s. 60, *see* first footnote on p. 521, *supra*.

The original section was as follows:—

> "When any representative wátándár or any deputy or substitute appointed by him is convicted by any Court of Session of any offence in the discharge of his official duties, it shall be lawful for Government to direct the forfeiture of the whole or any part of the wátán or of the profits thereof."

PART X.

Inferior Village Hereditary Offices.

Application of Part X.

63. This Part applies only to hereditary village-offices of lower degree than that of patel or kulkarni.

Powers granted to Collector.

64. The Collector is empowered, subject to the general control of Government—

(*a*) to register the names of individual wátándárs as holders of the office, or to register it as held by the whole body of wátándárs:

(*b*) to determine, when individual names are so registered, the rights, duties, and responsibilities among themselves of the persons so registered, and the mode in which they shall be selected to perform the duties, whether by selection by the Collector or by defined rotation, or by election by the wátándárs, or otherwise, as may be expedient:

(*c*) to require, in cases where the registration is made in the name of the whole body of wátándárs, that they appoint so many fit persons as may be necessary to perform the duties which the Collector may assign to them severally and jointly; such appointment to be made within a reasonable time to be previously fixed and notified to them by the Collector; in default of such appointment being made, the Collector may himself appoint:

(*d*) to provide for and enforce the joint responsibility of the whole body for the neglect of duty or misconduct of any of their number or their representatives; and, in cases where the crime of cattle-poisoning is prevalent, with the sanction of Government to attach, during the pleasure of Government, the wátáns of the persons whom he may have reason to believe to have been guilty of, or to have connived at the commission of the crime:

(*e*) to pass orders in regard to appointment, remuneration, period of service, suspension, fining and dismissal of persons officiating, the grant of leave of absence and other matters of discipline not expressly provided for by this or any other law for the time being in force.

PART XI.

The Register.

Collector to prepare and keep register.

65. The Collector shall prepare and keep all registers necessary for the purposes of this Act in the form which Government may from time to time

prescribe. There shall be one register of lands and allowances in consideration whereof liability to perform service exists, and another of lands and allowances in respect of which no such liability exists.

Non-service register what to contain.

66. In the register of lands and allowances the holders whereof are exempt from service, the Collector shall specify—

(*a*) the area of the lands, the survey-number and assessment, the quit-rent leviable, and the nett revenue alienated by Government :

(*b*) the amount and nature of the cash or other allowances, and the source from which they are payable :

(*c*) the terms of the settlement under which the exemption is enjoyed ;

(*d*) the names of the parties to such settlement with Government as indicated in the sanads issued to them :

(*e*) such other particulars as Government may from time to time order to be recorded.

Service register what to contain.

[1] **67.** In the register of lands and allowances in consideration whereof liability to serve still exists, the Collector shall specify—

(*a*) the area of the lands, the names of the occupants, the survey number and assessment, the quit-rent, if any, leviable, and the nett revenue alienated by Government, the amount and nature of the cash or other allowances, the source from which they are payable, and the land and allowances assigned, for the remuneration of officiators ;

(*b*) the names of the heads of families and of the representative wátándárs :

(*c*) whether the service is performed by one representative wátándár or otherwise : if by several in successive periods, the order in which they are to succeed each other :

(*d*) the proportional share of the wátán possessed by each head of family which may be expressed in annas or fractions of a rupee :

(*e*) the number of officiators required to perform the duties :

(*f*) the nature of the settlement of inferior village wátáns referred to in Part X : * * *[2]

(*g*) such other particulars as Government may (from time to time) order to be recorded.

Register to be corrected.

68. The register kept under this Act shall be corrected or added to on the occasion of any change being made in accordance with the provisions of this Act in the particulars above specified.

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[1] As to the local repeal of s. 67, *see* first footnote on p. 521, *supra*.

[2] The words " of this Act " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

PART XII.

MISCELLANEOUS.

Service to be performed by wátándárs.

[1]**69.** All wátándárs of whatever denomination whose liability to serve has not been commuted are legally bound, subject to the provisions of this Act, to render such service as has been customary or as is required by law.

Wátán records the property of Government.

[2]**70.** All records which have been or may be prepared by any wátándár or by any officiator in an hereditary office in pursuance of the duties of the office, or by order of a superior officer or of the present or former Government, are hereby declared to be the property of Government, and the Collector may enforce their production or the production of any State records in the possession of a wátándár or of an officiator, in accordance with the provisions of sections 25 and 26 of the [3]Bombay Land-revenue Code, 1879. Bom. V of 1879.

Wátándárs may sign village-records.

[1]**71.** With regard to hereditary offices not inferior to that of patel or kulkarni, it is hereby declared that every head of a family shall have the privilege of signing the abstract of village-land and revenues or other village papers which it may be customary for him to sign.

PART XIII.

PROCEDURE AND APPEALS.

Evidence to be taken.

72. *Clause 1.*—It shall be lawful for the Collector or other officer conducting an investigation under this Act to take evidence, and in sections 193 and 228 of the [4]Indian Penal Code the words "judicial proceeding" shall be taken to include any proceeding under this Act. XLV of 1860.

Clause 2.—Every person who shall have been summoned to give evidence or to produce any document in his possession, by the Collector or other officer conducting an investigation under this Act, shall be legally bound to attend or to produce such document.

Orders under Parts III, V,

[5]**73.** *Clause 1.*—Except as hereinafter provided in clause 2 of this section,

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[1] As to the local repeal of ss. 69 and 71, *see* first footnote on p. 521, *supra*.

[2] Section 70 was substituted by s. 14 of the Bombay Hereditary Offices Amendment Act, 1886 (Bom. Act 5 of 1886), *infra*, p. 863.
The original section was as follows:—
"All records which have been or may be prepared by any wátándár in pursuance of the duties of the office, or by order of his superior officer, or of the present or former Government, are hereby declared to be the property of Government, and the Collector is hereby empowered to demand their production."

[3] *Infra*, p. 631.

[4] *See* the reprint of the Act as modified up to 1st April, 1903.

[5] As to the local repeal of parts of s. 73, *see* first footnote on p. 521, *supra*.

no order under Part III * * *[1] directing commutation of a wátán, or under Part V * * *[1] assigning the remuneration of officiators, or under Part VI * * *[1] determining the custom of the wátán as to service and what persons should be registered as heads of families or representative wátándárs, or under Part VII * * *[1] determining the periods of service shall be passed, unless after an investigation recorded in writing and a proper opportunity afforded for the hearing of claims and the production of evidence.

VI and VII to be passed after investigation in writing.

In each such investigation, and in removals from office under section 58 * * *[1] the Collector or other officer shall record his decision with the reasons therefor in his own handwriting.

Clause 2.—Unless the Governor in Council shall otherwise direct, decisions passed subsequently to the year 1866 after an investigation recorded in writing, and after a proper opportunity had been afforded for the hearing of claims and the production of evidence, and which are recorded with the reasons therefor, in the handwriting of a Collector or his assistant or deputy, shall be accepted, in so far as they may not be inconsistent with the provisions [2][of this Act], in lieu of fresh investigation and decision under this Act for the purpose of framing the register required in section 67. * [3]

Certain decisions passed since 1866 to be accepted in lieu of fresh investigation.

If any details necessary for the said register have not been recorded in any decision of the nature described above, but are forthcoming from the evidence taken in connection with such decision, they may be supplied from such evidence in lieu of fresh investigation for the completion of the register.

Such details as may not be forthcoming shall be obtained by such further investigation as the Collector may deem necessary.

74. The proceedings of the Collector shall be under the general control of the [4]* Commissioner [4]* * * * * * * and of Government.

Control of proceedings of Collector.

75. The Collector may require any investigation under Part X * * *[1] to be made by a mámlatdár or máhalkári, but the decision thereon shall be made by the Collector.

Mamlatdar may make investigation under Part X.

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[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol IV of this Code.

[2] These words were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886); and re-inserted by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

[3] The word "thereof" was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[4] The word "Revenue" and the words and figures "appointed under Regulation V of 1830, or other law in force for the time being" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

No appeal to lie save were specially provided.

76. No appeal shall lie from any order made under section 64, clause (*e*) [1]* * * before final order, nor from any order registering any fact specified under section 67, clauses (*b*), (*c*), (*d*) and (*e*) * * *[1] where the effect of such order is merely to register the same facts as are already recorded in the existing registers kept according to law or under the orders of Government.

Appeals.

77. Except as hereinbefore provided, one appeal only shall lie from every decision passed after investigation recorded in writing by a Collector, or by an Assistant Collector or Deputy Collector. * * * * *[2]

Such appeal, if from the decision of an Assistant Collector or Deputy Collector * * *[2], shall lie to the Collector, and shall be made within sixty days from the date of the order appealed against.

Such appeal, if from the decision of the Collector, shall lie to the [3]* Commissioner, and shall be made within ninety days from the date of the order appealed against.

In computing the above periods the time required to prepare a copy of the order or decision appealed against shall be excluded.

Copy of order to accompany petition of appeal. Appeal may be summarily rejected.

78. Every petition of appeal shall be accompanied by a copy of the order or decision appealed against: and it shall be competent for the officer before whom the appeal is presented to reject the appeal if on perusal of the petition it appears to him that there is no sufficient ground for questioning the correctness of the decision, or for interfering with the order appealed against.

Government may call for proceedings.

79. Government may call for and examine the record of the proceedings of any officer for the purpose of satisfying itself as to the legality or propriety of any order passed, and may reverse or modify the order as shall seem fit, or, if it seem necessary, may order a new enquiry.

Notice how to be served.

80. Service of any notice given under this Act shall be deemed to have been made by the notice being affixed in writing to the wall of the village chaunri or other public place in the village not less than seven days before action is required to be taken by any person thereon.

Recoveries how made

81. All recoveries of profits from land, assessments, emoluments or penalties under this Act may be made as provided by any law for the time being in force relating to the recovery of the land-revenue.

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[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words and figures "empowered under the provisions of Bombay Act I of 1868" and the words "so empowered" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[3] The word "Revenue" was repealed by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

Government to frame rules.

82. Government may frame rules not inconsistent with this Act for the guidance of its officers in cases not expressly provided for, and may from time to time modify or revoke any such rules.

Government to determine duties of hereditary officers.

83. Except as is otherwise provided in section 18 * * *[1], Government shall have power, in cases where doubt exists, to determine what duties appertain to any hereditary office.

Grant of powers to special officer.

84. The Governor in Council may from time to time confer on any officer specially selected for the purpose[2], [or, so far as concerns any alienated village, on the holder or on any of the holders of such village or on any agent of the holder of such village] all or any of the powers and duties which under this Act are required to be performed by a[3] * Commissioner or a Collector, and may authorize the delegation to any mámlatdár or máhalkári of the power to fine hereditary village-officers in sums not exceeding two rupees.

[4] Powers and duties conferred under this section shall be exercised or performed subject to such conditions, if any, in addition to those specified in this Act, as the Governor in Council shall from time to time think fit to [5] prescribe, and any order conferring powers and duties under this section may at any time be cancelled by the Governor in Council.

Act not to affect Bombay Act VIII of 1867.

85. Nothing in this Act contained shall be deemed to affect [6]Bombay Act VIII of 1867 or any other law for the time being in force, defining the duties and powers of village-officers or imposing penalties for misconduct; and all references in such laws to [7] Act XI of 1843 shall be taken as made to this Act.

SCHEDULE.

[*Enactments repealed.*]

Rep. Act XII of 1876.

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[1] The words " of this Act " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] These words were inserted by the Bombay Hereditary Offices Amendment Act, 1886 (Bom. Act 5 of 1886), s. 15 (1), *infra*, p. 863.

[3] The word " Revenue " was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[4] This paragraph was added by the Bombay Hereditary Offices Amendment Act, 1886 (Bom. Act 5 of 1886), s. 15 (2), *infra*, p 863.

[5] *See* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. 525.

[6] *Supra*, p 478.

[7] Act 11 of 1843 was repealed by s. 2 of this Act.

SECOND SCHEDULE [1].

OFFENCES REFERRED TO IN SECTION 60.

Description of offence.	Sections of the [2]Penal Code under which punishable.
(1) Every offence described in Chapter VI of the Indian Penal Code [2].	121, 121A, 122—124. 124A, —125—130.
(2) Causing disappearance of evidence of any offence committed, or giving false information touching it to screen the offender, when the offence committed is a capital offence, or punishable with transportation for life or imprisonment for ten years.	201
(3) Harbouring an offender, if such offender's offence be capital, or punishable with transportation or imprisonment for ten years.	212
(4) Taking gift, etc., to screen an offender from punishment, if such offender's offence be capital, or punishable with transportation for life or with imprisonment for ten years.	213
(5) Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if such offender's offence be capital, or punishable with transportation for life or with imprisonment for ten years.	216

XLV of 1860.

XLV of 1860.

BOMBAY ACT No. III OF 1875 [3].

[*28th December, 1875.*]

An Act for enabling Government to levy tolls on public roads and bridges in the Presidency of Bombay.

Preamble.

WHEREAS tolls have been levied in the Presidency of Bombay in accordance with [4] Act XV of 1864 since the thirtieth day of July, 1864, but doubts have arisen whether the said Act has been formally extended to the said Presidency; and whereas it is expedient to remove the said doubts and to

[1] This Schedule was added by the Bombay Hereditary Offices Amendment Act, 1886 (Bom. Act 5 of 1886), s. 16 *infra*, p. 863.

[2] *See* reprint of the Act as modified up to 1st April, 1903.

[3] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1875, Pt. V, p. 92, and for Proceedings in Council, *see ibid.*, pp. 104 and 108.

This Act has been declared, by notification under the Scheduled Districts Act, 1874 (14 of 1874), General Acts, Vol. II, p. 467, to be in force in the Province of Sindh—*see* Appendix to Vol. I of this Code, p. 333.

No tolls leviable under this Act are to be levied within any local area notified under the Bombay Highway Act, 1883 (Bom. Act 1 of 1883), s. 7, *infra*, p. 804.

The net proceeds of certain tolls levied under this Act are to be credited to the Local Fund constituted by the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884), s. 44, *infra*, p. 840.

[4] General Acts, Vol. I, p. 436.

consolidate in one Act the provisions for the levy of tolls upon public roads and bridges in the said Presidency; It is enacted as follows:—

Repeal of Act VIII of 1851.

1. [1]Act VIII of 1851 is hereby repealed in so far as it affects the [2]Presidency of Bombay.

2. [*Act XV of 1864 deemed to have been extended to Bombay Presidency from 30th July, 1864.*] *Rep. Act XVI of 1895.*

Rates of tolls to be levied.

3. The Governor in Council may cause such rates of tolls, not exceeding the rates mentioned in the schedule annexed to this Act, to be levied upon any road or bridge which has been or shall hereafter be made or repaired at the expense of the Government or from funds collected under the provisions of [3] Bombay Act III of 1869 or other funds levied under the authority and subject to the general control of Government, and may place the collection of such tolls under the management of such persons as may appear to him proper; and all persons employed in the management and collection of such tolls shall be liable to the same responsibilities as would belong to them if employed in the collection of the land-revenue [4]* * * * * * *.

"Persons" defined.

[5] *Clause 2.*—The word "persons" in this section shall be deemed to include local boards established under the [6] Bombay Local Boards Act, 1884.

Bom. I of 1884.

Procedure in case of non-payment of tolls.

4. In case of non-payment of any such toll on demand, the officers appointed to collect the same may in the first place seize any part of the burden or load of the carriage or animal on which the toll is chargeable, of sufficient value to defray the toll, or, in the event of the burden or load being insufficient, such carriage or animal;

and, if any toll remains undischarged for twenty-four hours, with the cost arising from such seizure, the case shall be brought before the officer appointed

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[1] General Acts, Vol. I, p. 79.

[2] Notwithstanding the repeal of Act 8 of 1851 in the Presidency of Bombay, the Governor General in Council may cause such rates of toll, not exceeding the rates mentioned in the schedule annexed to that Act, as he may think fit, to be levied in respect of the Lansdowne Bridge over the Indus at Sukkur, and may place the collection of such tolls under the management of such persons as may appear to him proper: and all the provisions of that Act shall apply to such tolls and the collection and recovery thereof in the same manner as if such provisions were re-enacted *verbatim*—*see* s. 2 of the Lansdowne Bridge Act, 1892 (8 of 1892), General Acts, Vol. VI, p. 88.

As to validation of past levy or collection of tolls on the Lansdowne Bridge, *see* s. 3 of the Lansdowne Bridge Act, 1892 (8 of 1892), General Acts, Vol. VI, p. 88.

[3] *Supra*, p. 492.

[4] The words "*until* such rates of tolls shall be fixed by the Governor in Council, the tolls now levied shall continue to be levied by persons under whose management the same are now collected, who shall be held to have been appointed under the provisions of this Act," were repealed by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 223.

[5] This clause was substituted by s. 77 of the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884) which, however, does not extend to Aden or the City of Bombay. For that Act, *see infra*, p. 840.

The original clause was as follows:—

"The word 'persons' in this section shall include Local Fund Committees established under Bombay Act III of 1869."

[6] *Infra* p. 840.

to superintend the collection of the said toll, who may sell the property seized for discharge of the toll and all expenses occasioned by such non-payment, seizure and sale, and cause any balance that may remain to be returned on demand to the owner of the property ; and the said officer on receipt of the property shall forthwith issue a notice, that at noon of the next day, exclusive of Sunday or any close holiday, he will sell the property by auction:

Provided that if, at any time before the sale has actually begun, the person whose property has been seized shall tender the amount of all the expenses incurred, and of double the toll payable by him, the said officer shall forthwith release the property seized.

Exemptions from toll.

5. No tolls shall be paid for the passage [1] * * * * * * of Police-officers on duty, or of any person or property in their custody. And it shall further be lawful for His Excellency the Governor in Council, by [2] notification in the Government Gazette, to grant and define other exemptions from payment of the tolls levied under this Act.

Government may grant other exemptions.

Police-officers bound to assist toll-collectors.

6. All Police-officers shall be bound to assist the toll-collectors, when required, in the execution of this Act, and for that purpose shall have the same power which they have in the exercise of their ordinary police duties.

Penalty on unauthorized person demanding tolls, and for illegal demand.

7. Every person, other than the persons appointed to collect the tolls under this Act, who shall levy or demand any toll on any public road or bridge, or for passing through any bázár situated thereon, and also every person who shall unlawfully and extortionately demand or take any other or higher toll than the lawful toll, or under colour of this Act seize or sell any property, knowing such seizure or sale to be unlawful, or in any manner unlawfully extort money or any valuable thing from any person under colour of this Act, shall be liable, on conviction before a Magistrate, to imprisonment [3] * * * for any term not exceeding six * [3] months, or to fine not exceeding rupees two hundred, any part of which fine may be awarded by the Magistrate to the person aggrieved, but this remedy shall not be deemed to bar or affect his right to have redress by suit in the Civil Court of the district.

Table of tolls to be put up at gate or station

8. A table of the tolls authorized to be taken at any toll-gate or station, legibly written or printed in English words and figures, and also in those of the vernacular language of the district, to which shall be annexed, written or

[1] The words "of troops and military stores and equipages on their march, or" were repealed by s. 3 of the Indian Tolls (Army) Act, 1901 (2 of 1901), General Acts, Vol. VII, p 142.

[2] For such notifications, *see* Bombay Government Gazette, 1897, Pt. I, p 1419; *ibid*, 1898, p. 7; *ibid*, 1901, p. 1025; *ibid*, 1902, p. 2121; *ibid*, 1903, pp. 997 and 1506, and *ibid*, 1904, p. 743.

[3] The words "of either description" and the word "Calendar" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

printed in like manner, a statement of the penalties for refusing to pay the tolls and for taking any unlawful toll, shall be furnished by Government to the collector of tolls, and the same shall by him be kept in a conspicuous place near such gate or station.

Collectors of tolls may compound for tolls.

9. Any person entrusted with the management of the collection of tolls under this Act may in his discretion compound for any period, not exceeding one year, with any person for a certain sum to be paid by such person for himself or for any vehicle or animal kept by him, in lieu of the rates of tolls specified in the schedule to this Act.

Power of Government to lease the levy of tolls.

[1] **10.** It shall be lawful for the Government to lease the levy of tolls at such rates not exceeding the rates mentioned in the schedule annexed to this Act upon any public road or bridge by public auction or private contract from year to year or for a longer period not exceeding seven years on such terms and conditions as the Government may deem desirable :

Provided that the lessee shall give security for the due fulfilment of such conditions, and that all sums payable under the terms and conditions of the lease shall be recoverable as a demand for the land-revenue under the law for the time being in force so far as applicable.

Acts of lessee or his agent.

[1] **11.** When the tolls on any public road have been duly leased, the lessee, and every person employed by the lessee as his agent for collecting the tolls, shall be deemed to be persons appointed to collect tolls under this Act, and shall exercise all the powers and be subject to all the responsibilities attaching to persons appointed to collect tolls under this Act.

[2] **12.** [*Application of tolls.*] *Rep. Bom. Act I of 1884.*

SCHEDULE.

	Rs.	A.	P.
On every four-wheeled carriage on springs	1	0	0
On every two-wheeled carriage on springs	0	8	0
On every ekka or hackery on springs	0	2	0

[1] Ss. 10 and 11 were inserted by s. 2 of the Bombay Tolls Amendment Act, 1881 (Bom. Act 5 of 1881), *infra*, p. 798.

[2] S. 12 which is repealed by s. 2 and schedule, to the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884), *infra*, p. 861, except in Aden and the City of Bombay, is as follows :—

"The nett proceeds of the tolls and leases of tolls under this Act shall be applied wholly to the construction, repair and maintenance of roads and bridges within the Presidency of Bombay :

Provided that the nett proceeds of tolls and leases of tolls on roads or bridges constructed by or belonging to any local fund committee shall be applied to the construction and maintenance of roads or bridges in the district under the superintendence of such local fund committee."

(*Schedule.*)

SCHEDULE—*contd.*

	Rs.	A.	P.
On every cart and hackery not on springs drawn by 8 bullocks, buffaloes, horses, ponies, asses or mules, if laden	1	0	0
Ditto, if not laden	0	8	0
On every cart and hackery not on springs drawn by 6 bullocks, buffaloes, horses, ponies, asses or mules, if laden	0	12	0
Ditto, if not laden	0	6	0
On every cart and hackery not on springs drawn by 4 bullocks, buffaloes, horses, ponies, asses or mules, if laden	0	8	0
Ditto, if not laden	0	4	0
On every cart and hackery not on springs drawn by 2 bullocks, buffaloes, horses, ponies, asses or mules, if laden	0	4	0
Ditto, if not laden	0	2	0
Buffaloes, or bullocks, per head, if laden	0	1	0
Ditto ditto if not laden	0	0	6
On every elephant	1	8	0
On every camel, if laden	0	4	0
Ditto, if not laden	0	2	0
On every horse, if laden or ridden	0	1	6
Ditto, unladen or led	0	0	9
On every pony or mule, if laden or ridden	0	0	9
Ditto, unladen or led	0	0	6
On every ass, if laden or ridden	0	0	6
Ditto, unladen or led	0	0	3
On every sheep or goat or pig	0	0	1
On every palankin, duli, palna or tonjon, with 8 bearers	1	0	0
Ditto ditto ditto with 6 bearers	0	12	0
Ditto ditto ditto with 4 bearers	0	8	0
On every foot-passenger with the special sanction of Government on bridges or hill roads	0	0	3

Explanation I.—Animals drawing any vehicle for which toll can be demanded are not to be also charged with toll.

Explanation II.—No second toll shall be levied on the same carriage or animal returning on the same day.

BOMBAY ACT No. I OF 1876.[1]

[*9th March, 1876.*

An Act to amend Bombay Act VIII of 1867[2].

Preamble. WHEREAS doubts have arisen whether a Police-patel, or other village-police-servant, may lawfully be suspended from office either during inquiry into alleged misconduct, or by way of punishment for misconduct, and it is expedient to remove such doubts; It is enacted as follows:—

[NOTE.—The amendments made by this Act are incorporated in Bom. Act VIII of 1867 as printed on pp. 478 *et seq.*, *supra*.]

THE BOMBAY CITY LAND-REVENUE ACT, 1876.

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BOMBAY ACT No. II OF 1876.[1]

[*26th October, 1876.*]

An Act to amend the Law relating to the Land-revenue Administration of the City of Bombay.

Preamble.

WHEREAS it is expedient to amend the law relating to the assessment and collection of the land-revenue, to provide against encroachments upon public property, to ensure the preservation of survey-boundary-marks, and otherwise to improve the existing land-revenue administration in the City of Bombay; It is enacted as follows :—

PART I.

PRELIMINARY.

Short title.

1. This Act may be cited as "The Bombay City Land-revenue Act, 1876."

Extent.

It extends only to the City of Bombay.

Regulation XIX of 1827 repealed.

2. So much of Regulation XIX of 1827 as has not been already repealed is hereby repealed.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1875, Pt. V p. 89; *ibid*, 1876, p. 201; for Report of the Select Committee, *see ibid*, 1875, p. 132, and for Proceedings in Council, *see ibid*, 1875, p. 103, and *ibid*, 1876, pp. 144, 153, 185 and 211,

All references made in any Act or Regulation to any part of the said Regulation XIX of 1827 hereby repealed shall be read as if made to the corresponding portion of this Act.

And all rules prescribed, appointments made, powers conferred, orders issued, and notifications published under the said Regulation, and all other rules (if any) now in force and relating to any of the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, conferred, issued and published hereunder.

And all proceedings now pending, which have been commenced under any part of the said Regulation XIX of 1827 hereby repealed shall be deemed to have been commenced under this Act, and shall hereafter be conducted in accordance with the provisions of this Act.

Interpretation clause.

3. In this Act, unless there be something repugnant in the subject or context—

[1] (*1*) "Collector" or "Collector of Bombay" means the Collector of Land-revenue, Customs and Opium, Bombay, or such officer as Government conformably to law may appoint in this behalf;

(*2*) the words "land-revenue" signify any sum of money legally claimable by Government from any person on account of any land, or interest in or right exerciseable over, land held by or vested in him, under whatever designation such sum may be payable;

(*3*) the words "survey-boundary-mark" mean, primarily, any iron or other mark set up by the officers who conducted the Bombay City-survey hereinafter described, and include any such new mark that may hereafter be set up by the Collector or under his orders, according to the provisions of this Act;

[2] (*4*) "superior holder" means the person having the highest title under Government to any land in the City of Bombay.

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[1] The original sub-section (*1*) of section 3 was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act I of 1904), Vol. IV of this Code. The present clause was inserted by the City of Bombay Land-revenue Amendment Act, 1900 (Bom. Act 3 of 1900), s. 1, Vol. IV of this Code.

The original sub-section (*1*) was as follows:—

"The word 'Collector' means the Collector of Bombay."

[2] Sub-section (*4*) of s. 3 was substituted by s. 1 of the City of Bombay Land-revenue Amendment Act, 1900 (Bom. Act 1 of 1900), Vol. IV of this Code.

The original sub-section was as follows:—

"The words 'Superior holder' signify the person having the highest title under Government to the land in respect of which land-revenue is payable."

(*Part II.—The Collector of Bombay and his Subordinates.* *Secs. 4-7.*
Part III.—Assessment and Collection of Land-revenue. *Sec. 8.*)

PART II.

THE COLLECTOR OF BOMBAY AND HIS SUBORDINATES.

Chief control in revenue matters.

4. The chief controlling authority in all matters connected with the land-revenue is vested in the Collector of Bombay subject to the Governor in Council.

Appointment and duties of the Collector of Bombay.

5. The Collector of Bombay shall be appointed by the Governor in Council, and shall exercise the powers and discharge the duties conferred and imposed on him by this Act, or by any other law for the time being in force, and, so far as is consistent therewith, all such other powers or duties as may from time to time be prescribed by the Governor in Council.

His assistants and establishment how appointed;

6. The Collector shall have as many assistants and such other establishment subordinate to him as the Governor in Council, under the general control of the Governor General [1][of India] in Council, may from time to time sanction, and their appointment shall be made in such manner as the Governor in Council may direct.

their duties,

The duties of the said assistants and other subordinates of the Collector shall be such as the Collector, subject to the orders of Government, may from time to time prescribe.

and powers.

Subject to the previous sanction of Government, the Collector may delegate any of his powers under this Act, or under any law which the Governor in Council is able to repeal or alter, to any of his assistants or other subordinates, and may at any time cancel such delegation.

Punishment for misconduct.

7. The Collector shall have power, subject to such rules as may from time to time be prescribed by Government, to fine, reduce, suspend or dismiss any of his assistants or other subordinates.

PART III.

ASSESSMENT AND COLLECTION OF LAND-REVENUE.

Collector to fix and levy land-revenue.

8. It shall be the duty of the Collector, subject to the orders of Government, to fix and to levy the assessment for land-revenue.

When there is no right on the part of the superior holder in limitation of the right of Government to assess, the assessment shall be fixed at the discretion of the Collector subject to the control of Government.

When there is a right on the part of the superior holder in limitation of the right of Government, in consequence of a specific limit to assessment having been established and preserved, the assessment shall not exceed such specific limit.

[1] These words were substituted for the words "in India" by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 223.

Settlement of assessment with whom to be made.

9. The settlement of the assessment of each portion of land to the land-revenue shall be made with the superior holder of the same.

If the said superior holder be absent and have left no known authorized agent in Bombay, or if there be a dispute as to who is entitled to be considered the superior holder of the land, the settlement may be made with the person actually in possession of the land; and any assessment so fixed shall be binding upon the rightful superior holder of the land.

Any payment made by the person in possession in accordance with the provisions of this Act shall be deemed to have been made on behalf of the superior holder.

[1]In any case wherein the superior holder or the person in possession cannot be readily ascertained, the Collector shall give notice calling on all persons claiming the right of a superior holder in or over the said land, or a right to the possession thereof, to intimate such claim to the Collector at the Collector's office.

[1]If no person asserts such right by intimation to the Collector at the Collector's office within twenty-one days from the date of such notice, the Collector may assess such land at his discretion, and the superior holder and every person then or thereafter in possession of the land shall be liable accordingly.

Liability for land-revenue.

10. The superior holder of land, or, in his absence, the person actually in possession, shall be liable in person and property for the land-revenue due upon the holding.

[2]Arrears of land-revenue due on account of land shall, on failure by the persons interested therein to pay the same within the date specified in that behalf in a notice demanding payment posted on or near the land, be a paramount charge on the land and on every part thereof.

Claims of Government to have precedence.

11. The claim of Government to any moneys recoverable under the provisions of this Act shall have precedence over any other debt, demand or claim whatsoever, whether in respect of mortgage, judgment, decree, execution, attachment or otherwise howsoever, against any land, or the superior holder thereof.

Collector to direct to whom and when and where revenue to be paid.

12. Subject to such orders as may be passed by the Governor in Council, the Collector shall from time to time give orders and make known the same by notice to be served on all superior holders of land paying revenue, or, in their absence, persons in possession, regulating the persons, places and times

[1] These paragraphs were added to s. 9 by the City of Bombay Land-revenue Amendment Act, 1900 (Bom. Act 3 of 1900), s. 2, Vol. IV of this Code.

[2] This paragraph was added to s. 10 by the City of Bombay Land-revenue Amendment Act, 1900 (Bom. Act 3 of 1900), s. 3, Vol. IV of this Code.

to whom and within which the revenue payable in respect of any land shall be paid.

Notice of demand may be served after arrears due.

13. [1] If any land-revenue is not paid at, or within, the time when it becomes payable the Collector may, on or after the day following that on which the arrears accrue due, cause a notice of demand to be served on the superior holder or on the person in possession, or on both.

Fees chargeable in respect of notice of demand.

[1] Every person to whom any such notice is issued shall be chargeable in respect thereof with a fee not exceeding two rupees calculated according to the rates specified on this behalf in the table in Schedule A:

[1] Provided that in no case shall the fee chargeable for any notice exceed the amount of the land-revenue in respect of which the said notice is issued.

On default of payment, defaulter's property may be attached and sold.

If the superior holder or person in possession, as the case may be, shall, for the space of twenty days after service of written notice of demand of payment, fail to discharge the revenue due, it shall be lawful for the Collector to levy the same by attachment and sale of the land on which the revenue is due or of any other property, moveable or immoveable, of the defaulter.

Sales how held.

Such sales shall be by public auction, and shall not take place until at least fifteen days after notice thereof shall have been published in the Bombay Government Gazette.

Defaulters may be arrested and confined.

If the sale of the defaulter's property shall not produce satisfaction of the demand, it shall be lawful for the Collector to cause him to be apprehended and confined in the civil jail under the rules in force at the Presidency for the confinement of debtors, for which purpose a certificate of demand under the Collector's signature sent with the defaulter shall be the sheriff's sufficient warrant, equally with the usual legal process in ordinary cases of arrest in execution of judgment for debt:

Provided, however, that such imprisonment shall cease at any time upon payment of the sum due, and that it shall in no case exceed one day for each rupee of the said sum.

Collector's decision to be acted on in first instance; but may be stayed on security.

14. The Collector's decision upon any question arising out of the provisions of sections 8 to 13 * * * [2] shall, unless superseded by the Revenue Judge, be binding upon all persons whom it may concern, and shall be acted upon accordingly; but the Collector's decision shall be stayed on any such

[1] These paragraphs of s. 13 and the proviso were substituted for the first seventeen words of s. 13 namely, "If any land-revenue is not paid at, or within the time when it becomes payable, and," by s. 4 of the City of Bombay Land-revenue Act Amendment Act, 1900 (Bom. Act 3 of 1900), Vol. IV of this Code.

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clause Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

person giving security to the satisfaction of the Collector that he will, within thirty days from the date when such decision was made known to him, institute a suit before the Revenue Judge for the purpose of contesting the legality of the Collector's decision, and will fulfil the decree that may be passed against him, and will pay all costs and interests which may be so decreed; or that, if he fail to file such suit as above specified, he will, when required, pay the amount demanded. being furnished.

15. All compulsory process against a defaulter shall cease on his paying or tendering the amount demanded of him under protest to the officer executing such process, or Compulsory process to cease on payment under protest, or on instituting suit and furnishing security.

on his instituting a suit before the Revenue Judge to contest the legality of the demand, and furnishing security satisfactory to the Collector or Revenue Judge, that he will, pending the decision of the said suit, neither quit the jurisdiction, nor remove nor transfer any of his property therein, without providing to the satisfaction of the Collector or of the Revenue Judge for the execution of the decree.

16. Fees shall be payable according to the table in the Schedule A [1]* * * on all warrants issued under the provisions of section 13 [2]* * * for the attachment and sale of the property of defaulters by the person in respect of whose property such warrants are issued, and an additional fee of four annas per diem shall be paid in like manner in respect of each peon employed, whenever the property distrained is placed in charge of any peon or peons. Fees in respect of warrant for attachment and sale of defaulter's property. Additional fee.

PART IV.

The Revenue Judge.

17. The Senior Magistrate of Police shall be Revenue Judge.

The Revenue Judge shall decide all suits brought before him against the Collector, or any person on his establishment, on account of land-revenue, or of acts done in their official capacities by the Collector, or any of his assistants or other subordinates. Revenue Judge. Duties and powers.

18. All such suits shall be commenced and the trial thereof shall be conducted according to the provisions of the general law of civil procedure for the time being in force in a District Court. Suits before Revenue Judge how conducted.

[1] The words "hereunto annexed" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B.

Appeals how and to whom to lie.

An appeal shall lie against a decree passed by the Revenue Judge in any such suit to the High Court on its appellate side, and shall follow the same rules as would be applicable under any law for the time being in force to appeals from the decrees of a District Court in original suits tried by it.

Decrees how executed.

The decree in any such suit, whether it be that of the Revenue Judge or of the appellate authority, shall, if it be against the Collector, be fulfilled by the Collector.

If it be against the plaintiff, it may be enforced by the Collector under section 13 * * [1] as an established revenue-demand :

Provided, however, that execution shall in either case be stayed if an appeal be made, and on the plaintiff's furnishing security similar to that described in section 15 * * * [1] if the appeal be brought by him.

PART V.

THE BOMBAY CITY-SURVEY AND BOUNDARY-MARKS.

Bombay City-survey recognized.

19. The survey made under the authority of Government during the years 1865 to 1872 shall be called "the Bombay City-survey;" and the demarcation of lands then made, and all the records of the said survey shall be taken as *primâ facie* evidence for all proceedings under and for all the purposes of this Act :

Provided that the Collector may, on the application of the parties interested in such lands, and shall, in pursuance of a decree or order of a competent Court, cause any alteration or correction to be made of any such demarcation of lands, or of any entry in any such record.

Responsibility for maintenance and repair of boundary-marks.

20. Every superior holder of land shall be responsible for the maintenance and good repair of the survey-boundary-marks of his holding and for any expenses, not exceeding five rupees for each mark, reasonably incurred on account of the same by the Collector in cases of alteration or removal.

Collector or subordinates may enter upon lands.

21. It shall be lawful for the Collector or for any of his assistants or other subordinates in that behalf duly authorized by writing under the hand of the said Collector to enter upon any lands for the purpose of inspecting the survey-boundary-marks erected thereon, or of altering, renewing or repairing such marks.

Collector may require superior

22. In the event of any survey-boundary-mark being destroyed, defaced, injured or removed, it shall be lawful for the Collector to cause to be served

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 8 of 1886), Schedule B This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

on the superior holder, or in his absence the person in possession of any land of which such mark designates the boundary, a requisition in writing signed by the said Collector, calling on such superior holder or person in possession to renew or repair the said mark, at his own expense, within fifteen days from the date of the service of such requisition.

holders to renew or repair survey marks. Requisition how made.

23. If the said survey-boundary-mark be not renewed or repaired, within the said period, to the Collector's satisfaction, it shall be lawful for the Collector or any of his assistants or other subordinates, or other person duly authorized as hereinbefore mentioned, to enter upon any land to which the said mark appertains, and to renew or repair it; and for each such mark so renewed or repaired, it shall be lawful for the Collector to charge each superior holder or person in possession, the boundary of whose land is designated by any such mark, such sum, not exceeding rupees ten in the whole, as he may deem fit.

On default, Collector or assistants may enter and renew or repair. Charge for renewal or repair.

PART VI.

Government Lands and Foreshore.

24. All unoccupied lands within the City of Bombay, and every unoccupied portion of the foreshore below high-water mark, shall be deemed, and are hereby declared to be, the property of Government, subject always to the rights of way and all other rights of the public legally subsisting.

Right of Government to lands and foreshore.

25. It shall be lawful for the Collector, with the sanction of Government, to dispose of any Government lands or foreshore, in such manner and subject to such conditions as he may deem fit.

Such lands and foreshore how disposed of.

PART VII.

Encroachments.

26. In the event of any encroachment being made after the passing of this Act on any Government lands or foreshore, it shall be lawful for the Collector or his assistants, or other subordinates, duly authorized in this behalf by writing under his hand, to summarily abate or remove any such encroachment;

Power to abate encroachments on Government land or foreshore;

[1] and the expense incurred therefor shall be leviable from the person in occupation of the land encroached upon.

or to prohibit or require abatement of such encroachments under penalty of fine;

[1] The Collector or such subordinate may, by notice posted up on or near any such land and published in the Bombay Government Gazette, and in such local newspapers as he deems fit, prohibit or require the abatement or removal of encroachments thereon, and shall fix in such notice a date, which shall be a reasonable time after such notice, on which the same shall take effect.

[1] Every person who makes, causes, permits or continues any encroachment on any land referred to in a notice so posted, shall be liable at the discretion of the Collector to a fine not exceeding twenty-five rupees for every day during any portion of which the encroachment continues after the date fixed for the notice to take effect.

or to charge for and assess land, and then enter it in name of encroacher.

But it shall be competent to the Collector, with the previous sanction of Government, and if the person making the encroachment so desire, to charge the said person a sum not exceeding five times the value of the land so encroached upon and to fix an assessment not exceeding five times the ordinary annual land-revenue thereupon, and then to cause the said land to be entered in his records in the name of the said person.

Value and land-revenue how calculated.

27. For the purposes of the preceding section, the value of land that has been encroached upon shall be fixed by the Collector according to the market value of similar land in the same neighbourhood at the time of such valuation.

And the annual revenue of any such land shall be assessed at the same rate as the land-revenue of similar land in the vicinity.

Encroachments made before passing of Act how dealt with.

28. In the case of any encroachment made within twenty years before the passing of this Act, the Collector may, with the sanction of Government, charge the person who made such encroachment, or who is in occupation of the land so encroached upon, a sum not exceeding double the value of the said land, and fix an assessment not exceeding double the ordinary annual land-revenue thereon, and recover arrears of land-revenue at the same rate from the date when the encroachment was made.

Encroachments before passing of Act defined.

29. For the purposes of the last preceding section, the amount by which any holding shall have been shown by the Bombay City-survey to exceed the area of such holding as entered in the Collector's previous records shall *primâ facie* be held to be an encroachment.

Value and land-revenue payable

And the value and land-revenue payable in respect of the same shall be calculated according to the market value of similar land in the neighbourhood,

[1] These paragraphs were added to section 26 by s. 5 of the City of Bombay Land-revenue Amendment Act, 1900 (Bom. Act 3 of 1900), Vol. IV of this Code.

and the land-revenue chargeable in respect of the excess shall be calculated at the same rate at which the rest of the holding has been assessed. in respect thereof how calculated.

In case there has been no such holding the assessment shall be made at such rate as the Collector, with the sanction of Government, may fix.

PART VIII.

Transfer of lands, etc.

30. Whenever the title to any land, house or other immoveable property, subject to the payment of land-revenue to Government shall be transferred or assigned, the person transferring or assigning the same, and the person to whom the same shall be transferred or assigned, shall respectively cause notice of such transfer or assignment to be given to the Collector. Notice of transfer of title to lands, etc., to be given to Collector.

Such notice shall be given within twenty days after execution of the instrument of transfer or assignment, or after its registration, if it be registered or after the transfer or assignment is effected, if no instrument is executed. Notice when to be given.

In the event of the death of any person in whose name the title to any property is entered in the Collector's records, the person to whom such title shall be transferred as heir or otherwise shall cause notice thereof to be given to the Collector within one year from such death. Transferee by death to give notice within one year.

31. The notice shall be in the form either of Schedule B or Schedule C [1]* * * * as the case may be, and shall state clearly all the particulars required by the said form. Form of notice.

It shall be accompanied, whenever the Collector shall deem fit so to require, by the instrument of transfer if any, [2] [by a plan to be furnished of the land which is the subject of the transfer or assignment, drawn and attested by a person of professional competence in that respect recognized by the Collector] and by a certificate that public notice has been given of the transfer or assignment by beat of bataki. Accompaniments.

32. Every person neglecting to give the notice required by the two last preceding sections within the time therein specified, shall be liable at the discretion of the Collector to a fine not exceeding ten rupees in case of holdings paying less than one rupee as land-revenue, and in no other case exceeding rupees one hundred. Penalty for neglect to give notice.

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[1] The words " annexed to this Act' " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] These words were inserted in section 31 by s. 6 of the City of Bombay Land-revenue Act Amendment Act, 1900 (Bom. Act 3 of 1900), Vol. IV of this Code.

Person transferring title and omitting to give notice to continue liable for revenue.

33. Every person transferring the title to any land, house, or other immoveable property subject to the payment of land-revenue to Government, without giving the notice required by sections 30 and 31, * * *[1] shall continue liable to Government for the payment of all land-revenue accruing due in respect thereof, until he shall have given such notice or until the requisite transfer shall have been effected in the Collector's records.

But nothing contained in this section shall be held to diminish the liability of the land, house or other immoveable property to attachment or sale under the provisions of section 13. * * *[1]

Proceeding in case of dispute as to entry or transfer.

34. Whenever any dispute or question shall arise with respect to the making or completion of any entry or transfer in the records of the Collector, of or relating to any land, house or other immoveable property subject to the payment of land-revenue to Government, the Collector shall summon all the parties interested in such entry or transfer, and shall call for such evidence, and examine such witnesses, as he shall consider necessary, and shall thereupon decide summarily what entry shall be made in his records in respect of such land, house or other immoveable property.

If at any time a certified copy shall be produced to the Collector of an order of a competent Court determining the title to any such land, house or other immoveable property, the Collector shall amend his records in conformity with such order.

Registration or transfer not to affect right of Government.

35. The registration or transfer of any title in the Collector's records shall not be deemed to operate so as in any way to affect any right, title or interest of Government in the land, house or other immoveable property in respect of which any such transfer is made or registered.

PART IX.

Procedure.

Law applied to summonses, etc.

36. The provisions of the [2] Civil Procedure Code in force for the time being with respect to the issue of summonses and commissions, and the compelling the attendance of witnesses, and for their remuneration, in suits before a District Court, shall apply to all persons summoned to appear before the Collector under the provisions of this Act.

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[1] The words "of this Act," were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] *See* now the Code of Civil Procedure (Act 14 of 1882), s. 3, as modified up to 1st December, 1899.

Notices how to be served.

[1] Any notice which the Collector or any of his subordinates is by this Act required or empowered to issue shall be deemed to have been sufficiently served,

(*a*) if it is addressed to any person and has been

(i) delivered to such person, or

(ii) delivered at his abode and in his absence to any adult male member or servant of his family, or

(iii) sent by post in a letter addressed to him at his last known residence, address or place of business and registered under Chapter VI of the [2] Indian Post Office Act, 1898, or

VI of 1898.

(*b*) if the Collector is in doubt as to the person to whom such notice should be addressed or as to the residence, address or place of business of any person on whom it is desired to serve such notice, and

(i) causes the notice to be posted in some conspicuous place on or near the land to which it relates, and

(ii) publishes the notice either in the Bombay Government Gazette or in such local newspapers as he deems fit or by proclamation on or near such land accompanied with beat of drum.

PART X.

Levy of House-rent, Fees, Penalties, etc.

Dues leviable as revenue-demands.

37. All arrears of rent payable by any person in respect of the occupation of any house the property of Government, and all fees, fines and penalties chargeable under this Act, and all moneys leviable under the provisions of this Act on account of the value of any land, or on account of the alteration, removal, renewal or repair of survey-boundary-marks, [3] [or on account of the abatement or removal of an encroachment], shall be realized in the same manner as other revenue-demands, under the provisions of section 13 of this Act.

Power to Collector of Bombay to assist other Collectors in realization of dues.

38. It shall be lawful for the Collector of Bombay to levy, in the same way as any arrear of land-revenue due under this Act, any sum certified by the Collector or Assistant or Deputy Collector of any district or collectorate in the Presidency of Bombay to be due and recoverable as an arrear of land-

[1] This paragraph was added to section 36 by s. 7 of the City of Bombay Land-revenue Amendment Act, 1900 (Bom. Act 3 of 1900), Vol. IV of the Code.

[2] General Acts, Vol. VI, p. 683.

[3] These words were inserted in section 37 by s. 8 of the City of Bombay Land-revenue Amendment Act, 1900 (Bom. Act 3 of 1900), Vol. IV of this Code.

revenue, from any person residing or owning property in the city of Bombay, by whom the same is so certified to be due.

PART XI.

MISCELLANEOUS.

Collector to keep registers and rent-rolls.

39. It shall be the duty of the Collector to prepare and keep in such form as Government may from time to time sanction a separate register and rent-roll of every description of land according to the nature and terms of the tenure on which such land is held.

Maps, land-registers and records where to be kept; to be open to inspection.

40. Subject to such [1] rules and the payment of such fees as the Governor in Council may from time to time prescribe in this behalf, all maps and land-registers, and other records of the Bombay City-survey, and all records concerning the land or the land-revenue, shall be kept in the Collector's office, and shall be open to the inspection of the public at reasonable hours; and

Extracts and copies to be given.

certified extracts from such maps, registers and records, or certified copies thereof, shall be given to all persons applying for the same.

Power to frame and vary rules for guidance of Collector, etc., and for matters not provided for.

41. It shall be lawful for the Governor in Council from time to time to frame, and from time to time to vary or repeal, [2] rules not inconsistent with the provisions of this Act for the guidance of the Collector and his assistants and other subordinates in the discharge of their duties, or for any other purpose connected with the subject-matter of this Act, not expressly provided for therein.

Any of such rules as the Governor in Council may deem fit may be published, and when published shall, until cancelled or amended by the Governor in Council, have the force of law.

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[1] *See* Bombay Local Rules and Orders, Ed. 1898, Vol. II, p. 525.

[2] For rules as to production of records of Collector of Bombay before a Court, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, p. 526, and for rules for disposal of Government lands for manufacture of salt, *see ibid*, p. 527.

SCHEDULE A.

Table of Fees payable under the provisions of section 16 of this Act.

Sum distrained for.	Fee.	
	₹	a.
Not exceeding ₹5	0	8
Over ₹5 and not exceeding ₹10	1	0
„ 10 „ „ „ 15	1	8
„ 15 „ „ „ 20	2	0
„ 20 „ „ „ 25	2	8
„ 25 „ „ „ 30	3	0
„ 30 „ „ „ 35	3	8
„ 35 „ „ „ 40	4	0
„ 40 „ „ „ 45	4	8
„ 45 „ „ „ 50	5	0
„ 50 „ „ „ 60	6	0
„ 60 „ „ „ 80	7	8
„ 80 „ „ „ 100	9	0
Upwards of ₹100	10	0

[1] *Table of Rates of Fees payable under the provisions of section 13 in respect of notices demanding payment of arrears of revenue.*

Revenue due.	Notice Fee.	
	₹	a.
Not exceeding ₹25	0	8
Over ₹25 and not exceeding ₹100	1	0
„ ₹100	2	0

[1] This table was added to Schedule A by s. 9 of the City of Bombay Land-revenue Amendment Act, 1900 (Bom. Act 3 of 1900), Vol. IV of this Code.

SCHEDULE B.

Form of Notice of Transfer to be given under section 30 of this Act, when the Transfer has taken place otherwise than by Instrument.

To

THE COLLECTOR OF BOMBAY.

I, *A. B.*, hereby give notice, as required by section 30 of the Bombay City Land-revenue Act, of the following transfer of property :—

(*Schedule B.*)

Date of Notice.	Name in which the property is at present entered in the Collector's records.	To whose name it is to be transferred.	Description of the Property.						
			Of what it consists.	Situation.	Collector's No.	Bombay City Survey No.	Dimensions of land.	Boundaries.	Remarks.

(Signed) *A. B.*

SCHEDULE C.

Form of Notice of Transfer to be given under section 30 of this Act, when the Transfer has been effected by Instrument.

To

THE COLLECTOR OF BOMBAY.

I, *A. B.*, hereby give notice, as required by section 30 of the Bombay City Land-revenue Act, of the following transfer of property :—

Date of Notice.	Date of instrument.	Name of vendor or assignor.	Name of purchaser or assignee.	Amount of consideration.	Description of the Property.						If instrument has been registered, the date of registration.	Remarks.
					Of what it consists.	Situation.	Collector's No.	Bombay City Survey No.	Dimensions of land.	Boundaries.		

(Signed) *A. B.*

THE BOMBAY VACCINATION ACT, 1877.

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BOMBAY ACT No. I OF 1877 [1].

[*17th May, 1877.*]

An Act to prohibit the practice of inoculation, and to make the vaccination of children in the City of Bombay compulsory.

WHEREAS it is expedient to prohibit the practice of inoculation, and to make the vaccination of children in the City of Bombay compulsory; It is enacted as follows :— Preamble.

PRELIMINARY.

1. This Act may be cited as the Bombay Vaccination Act, 1877. Short title.

It extends only to the City of Bombay. Local extent.

It shall come into force on such day [2] as the Governor in Council directs by notification in the Bombay Government Gazette, and its operation may at any time be suspended by the Governor in Council by notification in the said Gazette. Commencement.

2. In this Act, unless there be something repugnant in the subject or context,— Interpretation-clause.

(*1*) "parent" includes the father and mother of a legitimate child and the mother of an illegitimate child :

(*2*) "guardian" means any person to whom the care, nurture or custody

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1876, Pt. V, p. 228 ; for Report of the Select Committee, *see ibid*, 1877, Pt. V, p. 6, and for Proceedings in Council, *see ibid*, 1876, Pt. V, p. 247, and *ibid*, 1877, Pt. V, pp. 19 and 35.

[2] The 1st September, 1877, *see* Bombay Government Gazette, 1877, Pt. I, p. 653.

of any child falls by law, or by natural right or recognized usage, or who has accepted or assumed the care, nurture or custody of any child, or to whom the care or custody of any child has been entrusted by any authority lawfully authorized in that behalf :

(*3*) "public vaccinator" means any vaccinator appointed under this Act or any deputy duly authorized to act for such public vaccinator ;

(*4*) "medical practitioner" means any person duly qualified by a diploma, degree or license to practise in medicine or surgery, or specially licensed by the Governor in Council to practise vaccination and grant certificates under the provisions of this Act :

(*5*) "unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under the provisions of this Act to be insusceptible to vaccination :

(*6*) "animal lymph" means vaccine taken from the calf.

ESTABLISHMENT.

Vaccination-districts.

3. For the purposes [1][of this Act] the Sanitary Commissioner for the Presidency of Bombay, or such other officer as Government directs, shall divide the City of Bombay into as many districts for the performance of vaccination as he shall from time to time deem fit. Each such district shall be called a "vaccination-district."

Appointment of public vaccinators.

The Sanitary Commissioner or other officer aforesaid shall appoint a public vaccinator for every vaccination-district, and shall appoint such places as he shall from time to time deem fit in each district to be stations for the performance of vaccination. Such stations shall be called "public vaccine-stations".

Public vaccine-stations.

Every such public vaccinator shall be removeable from office by the Sanitary Commissioner or other officer aforesaid.

Notification of districts and stations.

The limits of the vaccination-districts made, and the positions of the public vaccine-stations fixed, under the provisions of this section, and the days and hours of the public vaccinator's attendance at each station, shall be published from time to time in such manner as shall be directed in rules to be framed under section 31. * * * [2]

Public vaccinator to live within district.

4. Every public vaccinator, unless specially permitted by the Sanitary Commissioner or other officer aforesaid to reside elsewhere, shall reside within

[1] The words "of this Act," were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1896), and re-inserted by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

the district for which he is appointed, and shall cause his name, with the addition of the words "Public Vaccinator for the district of ", to be posted up in some conspicuous place on or near the outer door of his dwelling-house and of every public vaccine-station in his district.

Qualifications of public vaccinator.

5. No person shall be appointed a public vaccinator, or act as a deputy for a public vaccinator, who shall not possess a certificate of qualification signed by the Sanitary Commissioner or other officer aforesaid.

Superintendent of Vaccination.

6. A Superintendent of Vaccination shall be appointed by Government, who, subject to the orders of the Sanitary Commissioner or other officer aforesaid, shall have a general control over all the proceedings of public vaccinators, and shall perform such duties, in addition to those prescribed by this Act, as shall be required by Government.

Assistant Superintendents.

The Superintendent shall have one or more assistants as Government may from time to time direct.

VACCINATION.

Parent or guardian of children born in Bombay, and of unprotected children brought to reside in Bombay,

7. The parent or guardian of every child born in the City of Bombay shall, within six months after the birth of such child, and

the parent or guardian of every unprotected child under the age of fourteen years brought to reside, whether temporarily or permanently, in the City of Bombay, shall, within three months after such child's arrival in the City, or, if the child be at the time of its arrival less than three months old, within six months after its birth[1] *

[1] * * * * * * *

must procure vaccination.

take it, or cause it to be taken, to a public vaccinator to be vaccinated, or shall, within such period as aforesaid, cause it to be vaccinated by some medical practitioner;

Public vaccinator bound to vaccinate all children brought to him.

and the public vaccinator to whom such child, or to whom any child under the age of fourteen years, is brought for vaccination, is hereby required, with all reasonable despatch, subject to the conditions hereinafter mentioned, to vaccinate such child.

Inspection.

8. At an appointed hour upon the same day in the following week after vaccination shall have been performed by a public vaccinator or a medical practitioner, or on [2][any earlier or later day] if the public vaccinator or medical practitioner so desires, the parent or guardian shall again take the

[1] The word "and" and the following paragraph, namely :—"the parent or guardian of every unprotected child living in the City of Bombay at the date of this Act coming into force, and whose age at such date exceeds six months, but does not exceed fourteen years, shall, within six months from the said date" were repealed by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

[2] These words were substituted for the words "an earlier day" by the Vaccination Act Amendment Act, 1882 (Bom. Act 3 of 1882), s. 2, *infra*, p. 799.

child, or cause it to be taken, to the public vaccinator or to the medical practitioner by whom the operation was performed, that he may inspect it and ascertain the result of the operation.

Re-vaccination.

In the event of the vaccination being unsuccessful, such parent or guardian shall, if the public vaccinator or medical practitioner so direct, cause the child to be forthwith again vaccinated and subsequently inspected as on the previous occasion.

If child be unfit for vaccination, certificate in form A to be given;

9. If any public vaccinator or medical practitioner shall be of opinion that any child is not in a fit state to be vaccinated, he shall forthwith deliver to the parent or guardian of such child a certificate under his hand according to the form of Schedule A * * *[1] or to the like effect, that the child is then in a state unfit for vaccination.

which shall remain in force for two months, but shall be renewable.

The said certificate shall remain in force for two months only, but shall be renewable for successive periods of two months until a public vaccinator or medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated and a certificate of successful vaccination given in the form of Schedule C * * * [1] according to the provisions of section 11 * * *[2] if warranted by the result.

When successive postponement certificates to be granted.

At or before the end of each successive period, the parent or guardian shall take, or cause the child to be taken, to some public vaccinator or medical practitioner, who shall then examine the child and give a fresh certificate according to the said form A, so long as he deems requisite under the circumstances of the case.

Provision for giving certificates of insusceptibility to successful vaccination.

10. If any public vaccinator or medical practitioner shall find that a child whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination, or that a child brought to him for vaccination has already had the small-pox, he shall deliver to the parent or guardian of such child a certificate, under his hand, according to the form of Schedule B * * *[1] or to the like effect, and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

Provision for giving certificates of successful vaccination.

11. Every public vaccinator or medical practitioner who shall have performed the operation of vaccination upon any child, and shall have ascertained that the same has been successful, shall deliver to the parent or guardian of such child a certificate according to the form of Schedule C

[1] The words "hereto annexed" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

* * * [1] or to the like effect, certifying that the said child has been successfully vaccinated.

Vaccination to be ordinarily with animal-lymph, but may, if Government so directs, be performed with lymph taken from human being.

12. Except as is hereinafter otherwise provided the vaccination of a child under the provisions of this Act must, if the parent or guardian of the child so require, be performed with animal-lymph ;

but it shall at any time be lawful for the Governor in Council, on its being shown to his satisfaction that animal-lymph is not procurable, to direct, by notification in the Bombay Government Gazette,—

(*a*) that during such period as he may deem fit to appoint the vaccination of children may, without the assent of the parents or guardians of such children, be performed with lymph taken from a human being ; and

(*b*) that the public vaccinator or medical practitioner to whom at any time during the said period a vaccinated child is brought under the provisions of section 8 * * * [2] for inspection may, if he see fit, take from such child lymph for the performance of other vaccinations.

No fee for vaccination at public vaccine-station, or for certificates. Proviso.

13. No fee or remuneration shall be charged by any public vaccinator to the parent or guardian of any child for any such certificate as aforesaid, nor for any vaccination done by him in pursuance of this Act at a public vaccine-station.

But it shall be lawful for a public vaccinator to accept a fee for vaccinating a child, by request of the parent or guardian, elsewhere than at a public vaccine-station.

REGISTRATION.

Registrar of births to give notice of requirement of vaccination.

14. On the registration of the birth of any child under the provisions of [3] section 256 of the Bombay Municipal Act, 1872, or of any other law for the time being in force, the Registrar shall deliver to the person giving information of such birth a printed notice in the form of Schedule D * * * [1] or to the like effect ; and such notice shall have attached thereto the several forms of certificates prescribed by this Act.

Duplicates of all certificates to

15. Every public vaccinator or medical practitioner who gives to any parent or guardian a certificate in any of the forms of Schedules A, B and C

[1] The words " hereto annexed " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV, of this Code.

[2] The words " of this Act " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV, of this Code.

[3] *See* now s. 445 of the City of Bombay Municipal Act, 1888 (Bom. Act 3 of 1888), Vol. IV of this Code.

be transmitted to Registrar.

* * * [1] shall within twenty-one days after giving the same, transmit a duplicate thereof to the Registrar of Births of the district where the birth of the child on whose account such certificate was given has been registered, or, if that be not known to him, or if the child was born out of the City of Bombay, or his birth has not been registered in the said City, to the Registrar of the district within which the child was vaccinated or presented for vaccination.

Registrar to keep vaccination-notice and certificate-book;

16. The Registrar of Births shall keep a book, in such form as may from time to time be prescribed by the Sanitary Commissioner or other officer under section 29 * * * [2] in which he shall enter minutes of the notices of vaccination given by him as herein required, and shall also register the duplicates of certificates transmitted to him as herein provided.

and also duplicate register of births with entries concerning vaccination,

17. He shall also prepare and keep a duplicate of the register of births required to be kept by him under the provisions of the [3] Bombay Municipal Act, 1872, or of any other law for the time being in force, with such additional columns as shall from time to time be prescribed by the Sanitary Commissioner or other officer under section 29 * * * [2] in which he shall record the date of every duplicate certificate in the form of Schedule B or Schedule C * * * [1] received by him concerning any child whose birth he has registered, and make an entry to the effect that the child has been vaccinated or is insusceptible of vaccination, as the case may be.

and also register of postponed vaccinations.

18. He shall also keep a register of postponed vaccinations in the form of Schedule E * * [1] in which he shall record the name of every child concerning whom he receives a duplicate certificate in the form of Schedule A * * * [1] together with the date of such duplicate certificate and of each such successive duplicate certificate, if he receives more than one, and shall show the number and the year of the entry, if any, in the register of births in which such child's birth has been registered.

Transmission of returns to Superintendent.

19. Every Registrar shall transmit on the first of every month to the Superintendent of Vaccination a return, in such form as may from time to time be prescribed by the Sanitary Commissioner or other officer under section 29 * * * [2], of all cases in which duplicate certificates have not been duly received by him in pursuance of the provisions of this Act during the last preceding month.

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[1] The words "hereto annexed" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV, of this Code.

[3] *See* now the City of Bombay Municipal Act, 1888 (Bom. Act 3 of 1888), Vol. III of this Code.

PROSECUTIONS AND OFFENCES.

Penalty for inoculating;

20. Whoever produces or attempts, to produce, in any person, by inoculation with variolous matter or by wilful exposure to variolous matter or to anything impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person;

and for entering City of Bombay after inoculation.

and whoever having been inoculated with small-pox in a place to which this Act does not extend shall afterwards enter the City of Bombay before the expiration of forty days from the date of such inoculation, or without a certificate from a medical practitioner that such person is no longer likely to cause contagion,

shall be punished with imprisonment [1]* * * * for a term which may extend to three months or to fine which may extend to two hundred rupees, or with both.

Magistrate may make order for vaccination of unprotected child under fourteen years.

21. If the Superintendent of Vaccination shall give information in writing to a Magistrate of Police that he has reason to believe that any child within the City of Bombay, under the age of fourteen years, is an unprotected child, and that he has given notice to the parent or guardian of such child to procure its being vaccinated, and that the said notice has been disregarded, such Magistrate may summon such parent or guardian to appear with the child before him, and, if the Magistrate shall find, after such examination as he shall deem necessary, that the child is an unprotected child he may make an order directing such child to be vaccinated within a certain time.

Penalty for disobedience of such order.

If at the expiration of such time the child shall not have been vaccinated, or shall not be shown to be then unfit to be vaccinated nor to be insusceptible of vaccination, the person upon whom such order shall have been made shall, unless he can show some reasonable ground for his omission to carry the order into effect, be punished with fine which may extend to fifty rupees:

Proviso for costs to person improperly summoned.

Provided that if the Magistrate shall be of opinion that the person is improperly brought before him, and shall refuse to make an order for the vaccination of the child, he may order the informant to pay to such person such sum of money as he shall consider a fair compensation for his expenses and loss of time in attending before the Magistrate.

Penalty for not producing child.

22. If any parent or guardian intentionally omits to produce a child whom he has been summoned to produce under the last preceding section, he shall be punished with simple imprisonment, within the meaning of the Indian

[1] The words "of either description, within the meaning of the Indian Penal Code" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

Penal Code,[1] for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. XLV of 1860.

Penalty for neglect to take child to be vaccinated, etc.

23. Whoever, in contravention of this Act,—

(*a*) neglects, without reasonable excuse, to take, or cause a child to be taken, to be vaccinated, or after vaccination to be inspected, or

(*b*) at any time during the period for which any notification made under section 12 * * * [2] is in force, prevents any public vaccinator from taking lymph from any child whom he has vaccinated, or

(*c*) neglects to fill up and sign and give to the parent or guardian of any child any certificate which such parent or guardian is entitled to receive from him, or to transmit a duplicate of the same to the Registrar of Births,

shall be punished for each such offence with fine which may extend to fifty rupees.

Penalty for making or signing false certificate.

24. Whoever wilfully signs, or makes, or procures the signing or making of, a false certificate, or duplicate certificate, under this Act, shall be punished with imprisonment [3]* * * * * * for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Penalty for accepting illegal fee or remuneration.

25. If any public vaccinator accepts or obtains or agrees to accept or attempts to obtain, from any person any fee or remuneration, contrary to the provisions of section 13 * * [2] he shall be deemed to have committed an offence punishable under section 161 of the [1] Indian Penal Code. XLV of 1860.

Cognizance of offences.

26. All offences under this Act shall be cognizable by a Magistrate of Police, subject to the provisions of any law for the time being in force for the trial of offences, but no complaint of any such offences shall be entertained unless the prosecution be instituted by order of, or under authority from, Government or the Superintendent of Vaccination.

Prosecution for neglect.

27. In any prosecution for neglect to procure the vaccination of a child it shall not be necessary in support thereof to prove that the defendant had received notice from the Registrar, or any other officer, of the requirements of the law in this respect ; but, if the defendant produce any such certificate as hereinbefore described, or the duplicate of the register of births or the register

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[1] *See* the reprint of the Act as modified up to 1st April, 1903.

[2] The words " of this Act " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act of 1904), Vol. IV of this Code.

[3] The words " of either description, within the meaning of the Indian Penal Code " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

of postponed vaccinations kept by the Registrar as hereinbefore provided, in which such certificate shall be duly entered, the same shall be a sufficient defence for him except in regard to the certificate according to the form of Schedule A, when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid.

Recovery of Fines.

28. * * * * [1]All fines imposed under this Act * * *[1] shall be recoverable [2][in the manner provided by the law for the time being in force for the recovery of fines imposed by Criminal Courts.]

MISCELLANEOUS.

Books and forms.

29. The Sanitary Commissioner for the Presidency of Bombay, or such other officer as Government directs, shall frame and provide appropriate books and forms for the use of the public vaccinators, and also such forms as shall be required for the signature of medical practitioners under the provisions of this Act, and he shall also transmit to the Registrars such books and forms as are required by them under the provisions of this Act.

Annual return of number of children vaccinated, etc.

30. It shall be the duty of the executive officer of health for the City of Bombay, appointed under the provisions of the [3]Bombay Municipal Act, 1872, or of the officer for the time being officiating in his appointment, to show in any annual general abstract of births and deaths prepared by him the number of children successfully vaccinated, the number whose vaccination has been postponed, and the number certified to be insusceptible to successful vaccination during the year.

Power of Sanitary Commissioner to make rules.

31. The Sanitary Commissioner for the Presidency of Bombay, or such other officer as Government directs, may, with the sanction of the Governor in Council, from time to time make rules[4] or issue orders consistent with this Act—

(*a*) providing for the appointment of deputies of public vaccinators when necessary;

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[1] The words "The provisions of sections sixty-four to seventy, both inclusive, of the Indian Penal Code shall apply to" and the words "and all such fines" in s. 28 were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] These words were substituted for the words and figures "in the manner prescribed by Act XIII of 1856 (for regulating the Police of the Towns of Calcutta, Madras and Bombay), and Act XLVIII of 1860 (to amend Act XIII of 1856), or any other Act for the time being in force regulating the Police of the City of Bombay" by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

[3] *See* now the City of Bombay Municipal Act, 1888 (Bom. Act 3 of 1888), Vol. III of this Code.

[4] *See* Bombay Local Rules and Orders, Ed. 1898, Vol. II, pp. 528 and 531.

(*b*) determining the qualifications to be required of public vaccinators or their deputies, and regulating the grant of certificates of qualification under section 5;

(*c*) for the guidance of public vaccinators and others in all other matters connected with the working of this Act.

All such rules or orders shall be published in the Bombay Government Gazette.

SCHEDULE A.

(*See section 9.*)

I, the undersigned, hereby certify that, in my opinion, , the child of , resident at in Bombay, is not now in a fit and proper state to be vaccinated, and I do hereby postpone the vaccination for the period of two months from this date.

Dated this day of , 18 .

(*Signature of Medical Practitioner or Public Vaccinator.*)

SCHEDULE B.

(*See section 10.*)

I, the undersigned, hereby certify that I have three times unsuccessfully vaccinated , the child of , residing at , in Bombay (*or* that the child has already had small-pox, *as the case may be*), and I am of opinion that the said child is insusceptible of successful vaccination.

Dated this day of , 18

(*Signature of Medical Practitioner or Public Vaccinator.*)

SCHEDULE C.

(*See section 11.*)

I, the undersigned, hereby certify that , the child of age , resident at , in Bombay, has been successfully vaccinated by me.

Dated this day of , 18 .

(*Signature of Medical Practitioner or Public Vaccinator.*)

SCHEDULE D.

(See section 14.)

To

(Here insert the name of the parent, guardian or other person who gives information of the child's birth.)

Take notice that the child of *(here enter the mother's name)*, whose birth has this day been registered, must be vaccinated under the provisions of the Bombay Vaccination Act, 1877, within six months from the date of its birth under a penalty of [1][fifty rupees].

The public vaccine-station nearest to the house in which the child was born is at No. . The days and hours for vaccination at that station are as follows :—

(Here insert the days and the hours when the public vaccinator is in attendance.)

On your taking, or causing the child to be taken, to the public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine-station in the City on the days and within the hours prescribed for public vaccination at such station, it will be vaccinated free of charge.

You should be careful to have one of the annexed forms of certificates filled in by the public vaccinator, or, if you employ a private medical practitioner to vaccinate the child, by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by a public vaccinator free of charge.

Dated the of , 18

(Registrar of Births.)

SCHEDULE E.

(See section 18.)

Register of postponed Vaccinations for the District of in Bombay.

Consecutive number.	Name of Child.	Birth.		Date of certificate of postponement.		Signature of Registrar.
		Year.	No. of entry in register.			
				1868		
1	Vinayak Pandurang .	1868	12	May	10	H. O.

[1]These words were substituted for the words "ten rupees" by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

BOMBAY ACT No. II OF 1878.[1]

[*23rd February 1878.*]

An Act to amend Bombay Act II of 1868.

[NOTE.—The amendments made by the Act are incorporated in Bombay Act II of 1868 as printed on pp. 486 *et seq.*, *supra*.]

THE BOMBAY ABKARI ACT, 1878.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1877, Pt. V, p. 193; and for Proceedings in Council, *see ibid*, pp. 300 and 416, and *ibid*, 1878, p. 10.

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BOMBAY ACT No. V OF 1878.[1]

[*19th September, 1878.*]

An Act to consolidate and amend the Ábkári-law of the Presidency of Bombay.

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to the import, export, transport, manufacture, sale and possession of liquor and of intoxicating drugs in the Presidency of Bombay; It is enacted as follows :—

I.—PRELIMINARY.

Short title.

1. This Act may be cited as the Bombay Ábkári Act, 1878.

Extent.

It extends to the whole of the Presidency of Bombay;

Commencement.

and it shall come into force in any portion of the said Presidency on such [2]date as Government, by notification in the *Bombay Government Gazette*, directs.

2. [*Repeal of enactments.*] *Rep. Act XVI of 1895.*

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context :—

(*1*) "Ábkári-revenue" means revenue derived or derivable from any duty, fee, tax, fine or confiscation imposed or ordered, under the provisions of this Act, or of any other law for the time being in force relating to liquor or intoxicating drugs:

(*2*) "Ábkári-officer" means a Commissioner, Collector or any officer or other person lawfully appointed, or invested [3] with powers under section 6:

(*3*) "Commissioner" [4] [includes an officer appointed by Government to be a Commissioner for the purposes of this Act:]

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1877, Pt. V, p. 141, and *ibid*, 1878, p. 61; for Report of the Select Committee, *see ibid*, 1877, p. 310, and for Proceedings in Council, *see ibid*, 1877, pp. 263, 264, 418, 425 and 427, and *ibid*, 1878, pp. 35, 42, 68 and 69.

Bom. Act 3 of 1892 (as to mhowra flowers) is to be construed as part of Bom. Act 5 of 1878—*see* s. 1 of the Act of 1892, Vol. III of this Code.

It is also provided by s. 6 of the Act of 1892 that nothing in that Act shall be deemed to affect the operation of any law for the time being in force, or of any rule for the time being having the force of law, relating to mhowra flowers as an article of forest produce.

[2] Bom. Act 5 of 1878 came into force in the whole of the Presidency of Bombay on the 1st January, 1879—*see* Notification No. 5756, dated 8th November, 1878, Bombay Government Gazette, 1878, Pt. I, p. 708.

[3] *See* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. LXXIV.

[4] These words were substituted for the words by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

The original words were as follows :—

"Commissioner" means, in Sind, the Commissioner in Sind, and elsewhere a Commissioner of Land-revenue, or if Government appoint any other officer to be a Commissioner for the purposes of this Act, such "other officer."

(4) "Collector" [1] [includes] any person appointed under section 5 to exercise the powers and perform the duties of a Collector under this Act:

(5) "Magistrate" means, in the City of Bombay, a Presidency Magistrate, and elsewhere, a Magistrate of the first or second class:

(6) "toddy" means juice drawn from a cocoanut, brab, date or any kind of palm-tree, whether in its fermented or unfermented state:

(7) "liquor" includes spirits of wine, spirits, wine, toddy, beer and all liquid consisting of, or containing, alcohol:

(8) "country-liquor" includes all liquor produced or manufactured in India:

(9) "intoxicating drug" includes gánjá, bháng, [2] [charas] and every preparation and admixture of the same, and every intoxicating drink or substance prepared from hemp, grain or other material not included in the term "liquor"; but does not include opium or anything included within the meaning of that word as defined in the [3] * [4] Opium Act, 1878: and I of 1878.

[5]["hemp" means any variety of the hemp plant from which intoxicating drugs can be produced]:

(10) "import" and "export" include respectively the conveying into, or out of, any part of the Presidency of Bombay, from, or to, any other part of India:

(11) "manufacture" includes every process, whether natural or artificial, by which any spirituous, fermented or intoxicating liquor or intoxicating drug is prepared, and also every process for the rectification of liquor:

admixing is a process within the meaning of this definition;

(12) "ser" means a weight of eighty tolas:

[6] [(13) "mhowra flower" does not include the berry or seed of the mhowra tree.]

II.—Establishment and Control.

Collectors charged with carrying out Act.

4. Subject to the control and direction of the Commissioners and the orders of Government, the Collectors are charged with the collection of the ábkári-revenue, and with the carrying out of the provisions of this Act.

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[1] This word was substituted for the words "means a Collector of Land-revenue or" by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The word "charas" was inserted by the Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 3., Vol. IV of this Code.

[3] The word "Indian" was repealed by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 204.

[4] *See* Act 1 of 1878, as modified up to 1st December, 1896, with footnotes brought down to 1st March, 1903.

[5] This definition was added by the Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 3, Vol. IV of this Code.

[6] Cl. (13) was added by the Bombay Ábkári Act Amendment Act, 1892 (Bom. Act 3 of 1892), s. 1A, Vol. III of this Code.

For the purposes of this Act, the Collector of Bombay shall be subordinate to such Commissioner as Government directs.

Special Collectors of Abkári-revenue may be appointed.

5. Government may, by notification in the *Bombay Government Gazette*, [1] appoint any person other than the Collector of Land-revenue to exercise, in any district or place, all the powers and perform all the duties conferred and imposed by this Act on a Collector, subject to such control, if any, in addition to that of the Commissioner and of Government, as Government may from time to time direct.

Subordinate officers.

6. To aid the Collectors in carrying out the provisions of this Act, the Commissioners may, subject to such orders as may from time to time be passed by Government in this behalf, appoint such subordinate officers with such designations, and assign to them respectively such [1] powers and duties under this Act, as they deem fit.

Government, or, subject to such orders as aforesaid, the Commissioners, may [2] invest any Government-officer in any department, either personally or in right of his office, or any other person, with such powers, and impose upon him such duties, under this Act as they deem fit, and any such officer shall thereupon exercise the said powers and discharge the said duties in addition to the powers and duties incident to his principal office:

Provided that powers under sections 36 and 40, clause (*b*), shall in no case be conferred on any officer of any department who is not superior in rank to a peon or constable, and that any assignment of, or investment with powers or duties made under this section may at any time be cancelled or varied by the authority which made it.

Punishment of subordinate officers for misconduct.

7. Subject to such orders as aforesaid, the Commissioners may at any time after inquiry recorded in writing fine, dismiss, suspend or reduce any subordinate officer appointed, or any officer on whom any additional powers or duties have been conferred or imposed by them under the provisions of the last preceding section, for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty or other misconduct.

Delegation of powers by Commissioners to Collectors.

8. The powers conferred on the Commissioners by the last two sections may be delegated by them, in whole or in part, to the Collectors, or to any Collector subordinate to them, and any such delegation may be at any time cancelled by the Commissioners.

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[1] For officers appointed to exercise the powers of a Collector, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, pp. lxxiv and lxxv.

[2] For notifications investing Government officers with powers under this section, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, pp. lxxv to lxxviii.

III.—Import, Export and Transport.

Import of liquor, hemp or intoxicating drug.

9. No liquor, [1][hemp] or intoxicating drug shall be imported by land or by sea into any part of the Presidency of Bombay unless—

(*a*) it is liable to the payment of duty under the [2]Indian Tariff Act, 1875, or any other law for the time being in force relating to the duties of customs on goods imported into British India, and the duty prescribed by such law has been paid thereon ; or

(*b*) such import is permitted under the power next hereinafter conferred.

Subject to the orders of Government the Collector may, from time to time,—

(*c*) [3] permit the import of liquor, [1][hemp] or intoxicating drugs or of any kind of liquor, [1][hemp] or intoxicating drugs other than liquor, [1][hemp] or intoxicating drugs liable to the payment of duty under such law as aforesaid, on payment of the duty, if any, to which the same is liable under this Act and on such other [3] terms as he thinks fit, and

(*d*) cancel such permission.

Export of liquor, hemp or intoxicating drug.

10. No liquor, [1][hemp] or intoxicating drug shall be exported by land or by sea from any part of the Presidency of Bombay unless—

(*a*) it has been lawfully imported by sea into any port in the said Presidency, and its export is permitted by competent authority on payment of the fee or duty, if any, to which it is liable under any law for the time being in force on its transhipment or re-exportation ; or

(*b*) such export is permitted under the power next hereinafter conferred.

Subject to the orders of Government the Collector may, from time to time,—

(*c*) [3] permit the export of liquor, [1][hemp] or intoxicating drugs, or of any kind of liquor, [1][hemp] or intoxicating drugs, on payment of the duty, if any, to which the same is liable under this Act and on such other terms as he thinks fit, and

(*d*) cancel such permission.

Sections 9 and 10 not

11. Provided that nothing in the two last preceding sections shall be deemed to affect any law for the time being in force which prohibits or

[1] The word "hemp" was inserted in sections 9 and 10 by the Bombay Abkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 4, Vol. IV of this Code.

[2] *See* now the Indian Tariff Act, 1894 (8 of 1894), as modified up to 1st February, 1906.

[3] For notification as to import into, and export from, the settlement of Aden of liquor and intoxicating drugs, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, p. LXXVIII.

restricts the importation of any liquor, [1][hemp] or intoxicating drug into the said Presidency, or which empowers the Governor General in Council to prohibit or restrict such importation, or which empowers the Governor General in Council to exempt any liquor, [1][hemp] or intoxicating drug from the whole or any part of the duties of customs to which it is liable under any law for the time being in force : to affect certain laws and powers of Governor General in Council.

Provided further that it shall be lawful for the Governor General in Council or for the Governor of Bombay in Council to [2] exempt any liquor, [1][hemp] or intoxicating drug from any duty to which the same may be liable under either of the said sections, or under any of the other provisions of this Act.

12. No liquor, [3][hemp] or intoxicating drug exceeding such quantity as Government may from time to time deem fit to [4] prescribe by notification in the *Bombay Government Gazette* either generally for the whole Presidency, or for any local area, district, city, town or village, shall be transported or removed from any one place to any other place unless— Transport of liquor, hemp and intoxicating drug.

(*a*) in the case of liquor other than country-liquor, the quantity transported or removed is *bonâ fide* required for private consumption, or for sale at any place to which the same is being transported or removed, and at which the sale of such liquor is duly licensed or permitted under the provisions of this Act, or,

(*b*) under a permit issued by an Ábkári-officer duly empowered in this behalf under the provisions of the next following section.

13. Permits for the transport or removal of liquor, [1][hemp] or intoxicating drugs may be issued by the Collector or by any other Ábkári-officer duly empowered in this behalf. Permits for transport.

Such permits may be issued either generally for definite periods, or for specified occasions only.

Every such permit shall specify—

(*a*) the name of the person authorized to transport or remove liquor, [1][hemp] or intoxicating drugs ;

(*b*) the period for which the permit is to be in force ;

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[1] The word "hemp" was inserted in section 11 by the Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 4, Vol. IV of this Code.

[2] For exemptions under this section, *see* List of Notifications in Bombay Local Rules and Orders, Vol. II, pp. LXXVIII to LXXX.

[3] The word "hemp" was inserted in section 12 by the Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 5, Vol. IV of this Code.

[4] For notifications prescribing the quantity of liquor that may be transported without a permit, *see* Bombay Local Rules and Orders, Ed. 1898, Vol II, p. LXXX.

(*c*) the quantity and description of liquor, [1][hemp] or intoxicating drugs for which it is granted ; and

(*d*) the places from and to which the liquor, [1][hemp] or intoxicating drugs are to be transported or removed, and, in the case of places more than ten miles apart, the route by which they are to be conveyed.

IV.—Cultivation and Manufacture.[2]

Cultivation of hemp and manufacture of liquor or intoxicating drug prohibited except under provisions of Act.

14. [3][No one shall cultivate hemp and no] liquor or intoxicating drug shall be manufactured,

no toddy shall be drawn from any tree,

no distillery or brewery shall be constructed or worked, and

no person shall use, keep or have in his possession any material, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing liquor or any intoxicating drug,

except under the authority and subject to the terms and conditions of a license to be granted by the Collector in this behalf or under the provisions of section 23.

Power of Government to prohibit, etc., cultivation of hemp and preparation of intoxicating drugs.

[4]**14A.** Government may from time to time by notification in the *Bombay Government Gazette*, in respect of the whole or any part of the Presidency of Bombay prohibit absolutely or except under and subject to the terms and conditions of a license granted under section 14,

(*a*) the cultivation of hemp,

(*b*) the production or preparation of intoxicating drugs from hemp so cultivated ;

and may, in like manner, cancel or vary any such notification.

Establishment of public distilleries.

15. The Collector may, with the previous sanction of Government,—

(*a*) establish at any place within his jurisdiction a public distillery in which liquor or any kind of liquor may be manufactured under a license granted under the last preceding section on such conditions as Government deems fit to impose, and

(*b*) discontinue any public distillery so established.

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[1] The word "hemp" was inserted in section 13 by the Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 4, Vol. IV of this Code.

[2] This heading was substituted for the heading "Manufacture" by the Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 2, Vol. IV of this Code.

[3] These words were substituted for the word "No" by the Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 6, Vol. IV of this Code.

[4] Section 14A was inserted by the Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 7, Vol. IV of this Code.

V.—Sale.[1]

Sale of liquor, hemp and intoxicating drugs prohibited without license or pass.

16. Except as is hereinafter otherwise provided, no liquor, [2][no hemp] and no intoxicating drug shall be sold without a license or pass from the Collector:

Provided that, in the City of Bombay and in such other places as Government may from time to time direct, no such license shall be necessary for the sale of any liquor not manufactured or produced in India, in its original casks or packages as imported, or in small quantities as *bonâ fide* samples:

[3] Provided, further, that no such license shall be necessary for the sale—

(*1*) by a person holding a license under this Act for the possession or cultivation of hemp and making such sale in accordance with the terms of such license, or

(*2*) by a cultivator or owner of any plant other than hemp from which any intoxicating drug is produced, of those portions of the plant from which such intoxicating drug is manufactured or produced, to a person holding a license under this section for the sale of intoxicating drugs, or to a person duly licensed under this Act to manufacture or to export intoxicating drugs.

Limit of retail sale.

17. It shall be lawful for Government from time to time, by notification in the *Bombay Government Gazette*, to [4] limit the quantity of country-liquor or of any intoxicating drug which may be sold by retail at one time, or to one and the same person, in the aggregate on any one day within any defined local area or place.

When any such limit has been prescribed in any local area or place, the Collector or any Ábkári-officer duly empowered in this behalf may, subject to rules to be prescribed by the Commissioners under section 35, give special orders for the occasional sale of country-liquor or of any intoxicating drug in quantities exceeding such limit.

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[1] As to sale of spirituous liquors and intoxicating drugs in cantonments, *see* Act 13 of 1889, Ch. III, Genl. Acts, Vol. V, p. 335.

[2] These words were inserted by the Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 8, Vol. IV of this Code.

[3] This proviso was substituted by the Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 8, Vol. IV of this Code.

The original proviso was as follows:—

> "*Provided, further*, that no such license shall be necessary for the sale by a cultivator or owner of any plant from which any intoxicating drug is produced, of those portions of the plant from which the intoxicating drug is manufactured or produced to a person holding a license under this section for the sale of intoxicating drugs, or to a person duly licensed under this Act to manufacture or to export intoxicating drugs."

[4] For notifications limiting the quantity that may be sold retail in districts of the Bombay Presidency, including Sindh and the settlement of Aden, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, p. LXXXI.

Sale of toddy.

18. No owner of any toddy-producing tree, and no person having a right to the juice of any such tree, and no drawer of toddy, shall sell toddy, and no person transporting or removing toddy under a permit granted under clause (*b*) of section 12, shall sell the same, except—

(*a*) under a license granted under section 16, or

(*b*) to a person licensed to manufacture or sell liquor under this Act:

Provided that Government may from time to time, by notification in the *Bombay Government Gazette*, suspend all the provisions relating to toddy contained in this Act with respect to any local area, and thereupon toddy may, during the period for which such notification continues in force, be drawn and sold without license or pass in such local area, notwithstanding anything in this Act.

[1]*VA.—Special provisions as to Mhowra flowers.*

Special provisions as to Mhowra flowers.

[1]18A. (*1*) Save as is provided in sub-section (*3*), no person shall export from or import into any prescribed area or collect, transport, sell or have in his possession within any such area any quantity of mhowra flowers exceeding the prescribed limit in weight, except under the authority and subject to the terms and conditions of a license, permit or pass granted by the Collector or other officer duly empowered in this behalf.

(*2*) In this section 'prescribed area' means such area, comprising either the whole or some portion of the districts of Thána and Kolába as the Governor in Council from time to time [2] notifies in this behalf; and 'prescribed limit' means four sers or such greater quantity as the Governor in Council from time to time notifies in this behalf:

(*3*) Provided that during the period of two months, from the 16th February, to the 15th April, in each year or such longer period, embracing the said two months as the Governor in Council from time to time by notification in the *Bombay Government Gazette* directs, no license, permit or pass shall be necessary for the collection, transport, sale or possession anywhere within the limits of the tálukás of Kalyán, Bhiwndi, Karjat, Murbád, Sháhápur and Váda or within any other portion of a prescribed area which the Governor in Council thinks fit in a notification as aforesaid to specify, of any quantity of mhowra flowers which are the produce of that year and of the said tálukás or of any or of either of them or other portion of a prescribed area, if any, so specified.

[1] This heading and section 18A were inserted by the Bombay Ábkári Act Amendment Act, 1892 (Bom. Act 3 of 1892), s. 2, Vol. III of this Code.

[2] For notification defining "prescribed area" in these districts, *see* Bombay Government Gazette, 1903, Pt. I, p. 291.

VI.—Duties.

Duty on liquor.

19. A duty shall, if Government so direct, be levied on all liquor—

(*a*) permitted to be imported into any part of the Presidency of Bombay under the provision of section 9, clause (*c*), or

(*b*) permitted to be exported from any part of the Presidency of Bombay under the provision of section 10, clause (*c*), or

(*c*) manufactured under any license granted under section 14, or

(*d*) manufactured at any distillery established under section 15, or

(*e*) permitted under section 13 to be transported or removed from any one place to any other place,

at such rate or rates as Government may from time to time [1]prescribe. Rate.

The said duty may be imposed at a certain rate per imperial gallon of liquor of not more than a certain strength, to be augmented in proportion as the strength of the liquor exceeds such strength, or in a lump sum to be paid daily or monthly or at other specified periods, in consideration of the privilege granted, or in any other manner whatsoever that Government may deem fit to direct.

Duty on tapping of toddy trees.

20. For every toddy-producing tree from which toddy is drawn there shall, if Government so direct, be levied for any period during which such tree is tapped such duty as Government from time to time directs;

and every license for drawing toddy granted under section 14 shall specify, in addition to any other particulars prescribed by Government under section 30,—

(*a*) the number, description and situation of the trees to be tapped;

(*b*) the amount of duty to be levied in respect of each tree included in the license;

(*c*) the instalments, if any, in which and the periods at which the said duty shall be leviable.

Duty by whom payable.

21. The said duty shall be leviable primarily from the person holding the license to draw toddy, and in default by him, or if the trees are tapped without license, from the owner of the trees.

Owner entitled to assistance in recovering from licensee duty paid by him.

22. When any duty is recovered under the last preceding section from the owner of the trees, he shall be entitled to assistance in recovering the same from the holder of the license under the provisions of the law for the time being in force relating to the recovery by superior landholders of their dues from their tenants.

[1] For notifications prescribing such rates for various liquors, and for liquors manufactured and transported in Aden, *see* those noted on pp. LXXX and LXXXI of the Bombay Local Rules and Orders, Vol. II, Ed. 1898.

Farming of right of drawing toddy within local area.

23. It shall be lawful for the Government within any local area to which they shall deem fit to apply [1] the provisions of this section, instead of directing the levy of a duty under section 20 on each tree from which toddy is drawn, to farm the right of drawing toddy from all toddy-producing trees within such area for such period and on payment of such duty either in the lump or in periodical instalments and on such conditions as they shall deem fit to impose.

Within any such area no person shall draw toddy from any toddy-producing tree, except with the written permission of the person to whom the said right is farmed.

Levy of tax or fee on toddy trees prior to Act legalized.

24. The levy heretofore made in certain districts of a tax on the tapping of toddy trees, or of a license-fee for drawing toddy from such trees, shall be deemed to have been lawfully made, and may hereafter be continued, subject to the provisions of this Act, at the same rates and subject to the same rules as are now in force until such time as Government, in exercise of the powers conferred by this Act, otherwise directs.

Arrears of any such tax or fee which accrued before the passing of this Act shall be recoverable as a duty due under this Act.

Privilege of drawing toddy from Government trees.

25. The privilege of drawing toddy from trees the right to which vests in Government may be disposed of annually by auction or otherwise on such terms as the Collector, acting under the general orders of Government, deems fit.

Adjustment of duty when joint privileges are conceded.

26. Whenever one and the same person is permitted—

(*a*) to draw toddy and sell it in its unfermented state, or

(*b*) to draw toddy and export it in its unfermented state, or

(*c*) to import unfermented toddy and sell it in its unfermented state, or

(*d*) to draw or to import fermented or unfermented toddy and use it in the manufacture of other liquor, or

(*e*) to manufacture, or to import and sell, or

(*f*) to manufacture and export,

any country-liquor other than unfermented toddy,

such duty may be levied in consideration of the joint privileges granted as the Collector, acting under the general or special orders of Government, thinks fit.

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[1] For notification applying the section to the Hyderabad District, Sindh, *see* Bombay Government Gazette, 1883, Pt. I, p. 218.

Duty on intoxicating drugs.

[1] **27.** (*1*) A duty shall, if Government so direct by [2] notification in the *Bombay Government Gazette*, be levied, at such rates and subject to such rules as Government may from time to time prescribe, on intoxicating drugs—

(*a*) produced or manufactured within, or

(*b*) imported into, or

(*c*) exported from, or

(*d*) transported from place to place within the Presidency of Bombay ;

and Government may, in like manner, alter or abolish any duty imposed under this section.

(*2*) Whenever a license is granted under this Act for the manufacture or sale, whether wholesale or retail or both, of any intoxicating drug, such duty shall be levied in consideration of the privilege granted as the Collector acting under the general or special orders of Government thinks fit.

Establishment and licensing of bonded and other warehouses and levy of duty on intoxicating drugs on issue therefrom.

[3] **27A.** The Governor in Council may from time to time by notification in the *Bombay Government Gazette*—

(*a*) [4] establish or license bonded or other central warehouses for the storage of intoxicating drugs, and

(*b*) direct that, subject to such conditions (if any) as he may from time to time impose, the levy of the duty (if any) payable under section 27 on intoxicating drugs in transit to or from or stored in such warehouses, shall be postponed until such time as may by rule be fixed in this behalf :

Temporary licensing of village warehouses.

Provided that the Collector may, with the previous sanction of Government, temporarily license suitable buildings as village warehouses for the storage of intoxicating drugs, pending the establishment and licensing of central warehouses in the manner hereinbefore stated, and subject—

(i) to the general or special orders of Government regarding the postponement of the levy of the duty (if any) payable under section 27

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[1] Section 27 was substituted by the Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 9, Vol. IV of this Code.

The original section was as follows :—

"Whenever a license is granted under this Act for the manufacture or sale of any intoxicating drug, and whenever the import, export, transport or removal from place to place of any intoxicating drug is permitted under this Act, such duty shall be levied in consideration of the privilege granted, as the Collector, acting under the general or special orders of Government, thinks fit."

[2] For a list of such Notifications, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, p. LXXXII.

[3] Section 27A was inserted by the Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 10, Vol. IV of this Code.

[4] For notifications establishing warehouses in certain places in the Bombay Presidency, *see* Bombay Government Gazette, 1901, Pt. I, pp. 1975 and 2257, and for notification closing the warehouse established at Nevara, *see ibid*, 1902, Pt. I, p. 1996.

on intoxicating drugs in transit to or from or stored in such warehouses, and

(ii) to such rules as may be made in this behalf by the Commissioner under clause (*f*) of section 35.

Payment of warehouse-dues.

[1] **27B.** (*1*) If intoxicating drugs be lodged in a warehouse established under the last foregoing section, the owner shall pay monthly, on receiving a bill or written demand for the same from the Collector or other officer deputed by the Collector in this behalf, warehouse-dues at such rates as the Commissioner may fix.

(*2*) If any bill for warehouse-dues presented under this section is not discharged within ten days from the date of presentation, the Collector may in discharge of such demand (any transfer or assignment of the drugs notwithstanding), cause to be sold, in such manner as he may think fit, such sufficient portion of the drugs as he may select.

(*3*) Out of the proceeds of such sale the Collector shall satisfy, first, the duty payable in respect of the drugs sold and, next, the demand in respect of which the drugs were sold, and shall then pay the surplus (if any) to the owner of the drugs on his application :

Provided that, if the drugs fail to produce a sum sufficient to satisfy the said duty and demand, the same shall not be sold, but shall be destroyed by, or by order of, the Collector :

Provided also that notice of such surplus (if any) as aforesaid shall be given to the owner of the drugs immediately after such sale, and that the application for the surplus shall be made within one year from the date of the issue of the notice, unless sufficient cause be shown for not making it within such period.

Period during which intoxicating drugs may remain warehoused.

[2] **27C.** Any intoxicating drugs warehoused under this Act may be left in the warehouse in which they are deposited, or in any warehouse to which they may in manner hereinafter provided be removed, till the expiry of two years from the date on which they were so deposited. The owner of any drugs remaining in a warehouse on the expiry of such period shall forthwith clear the same :

Provided that, when the license for a warehouse licensed under this Act is cancelled and the Collector gives notice of such cancellation to the owner of any drugs deposited in such warehouse, such owner shall, within seven days from the date on which such notice is given, remove such drugs to another warehouse or clear them.

[1] Section 27 B was inserted by s. 10 of the Bombay Ábkári Act Amendment Act 1901 (Bom. Act 5 of 1901), Vol. IV of this Code.

[2] Section 27C was inserted by s. 10 of the Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), Vol. IV of this Code.

Power to remove intoxicating drugs from one warehouse to another.

[1]**27D.** Any owner of intoxicating drugs warehoused under this Act may, at any time within two years from the date on which the drugs were so warehoused, with the permission of the Collector and on such conditions and after giving such security (if any) as the Collector may direct, remove the drugs from one warehouse to another, whether established or licensed by the same or another Local Government and whether under this Act or under any other enactment for the time being in force.

[1]**27E.** The Governor in Council may from time to time by notification in the *Bombay Government Gazette* make [2] rules consistent with this Act—

Power of Government to make rules.

(*a*) to regulate the time, place and manner of payment of the duties (if any) imposed under section 27;

(*b*) to carry into effect the provisions of section 14, and

(*c*) generally to carry into effect the provisions of this Part.

Duties may be farmed.

28. All or any of the duties leviable under this Act in any local area may, with the sanction of Government, be farmed, subject to such payment and on such other conditions as Government shall prescribe.

Farmer may apply to Collector to recover amounts due to him

29. When any amount is due to any such farmer from such farmer's licensee in respect of a license, or to any farmer of the right of drawing toddy from any person who has drawn toddy from any toddy-producing tree, such farmer may apply to the Collector to recover such amount on his behalf; and the Collector may, in his discretion, recover such amount as if it were an arrear of land-revenue, and shall pay any amount so recovered to the applicant:

Provided that the execution of any process issued by the Collector for the recovery of such amount shall be stayed if the person from whom it is sought to recover the same institutes a suit in the Civil Court to try the demand of the farmer, and furnishes a security to the satisfaction of the Collector for the payment of the amount which the Court may adjudge to be due from him to such farmer:

Provided also that nothing contained in this section or done thereunder shall affect the right of any such farmer to recover by suit in the Civil Court or otherwise any amount due to him from any such person as aforesaid.

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[1] Sections 27D and 27E were inserted by the Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 10, Vol. IV of this Code.

[2] For rules as to payment of duties, etc., *see* Bombay Government Gazette, 1901, Pt. I, p. 2298.

VII.—Licenses, etc.

Form and conditions of licenses, etc.

30. Every license, permit or pass granted under this Act shall be granted—

(*a*) on payment of such fees, if any,

(*b*) for such period,

(*c*) subject to such restrictions and on such conditions, and

(*d*) shall be in such form [1] and contain such particulars,

as Government directs in rules or orders made either generally, or in any particular instance, in this behalf, such rules or orders being not inconsistent with this Act:

[2] [Provided that no fee shall be charged on account of any license, permit or pass in respect of mhowra flowers granted under section 18A].

Counterpart agreement to be executed and security to be given by licensees.

31. Every person taking out a license for the manufacture or sale of any liquor or intoxicating drug under this Act shall execute a counterpart agreement in conformity with the tenor of his license, and shall give such security for the performance of his agreement as the Collector may require.

[3] And every person taking out a license to cultivate hemp under this Act shall, if called upon by the Collector so to do, give such security for the observance of the conditions of such license as the Collector may require.

Power to recall licensee, etc.

32. The Collector may summarily recall or cancel any license, permit or pass granted under this Act—

(*a*) if any fee or duty payable by the holder thereof be not duly paid, or

(*b*) in the event of any breach by the holder of such license, permit or pass, or by his servants, or by any one acting with his express or implied permission, on his behalf, of any of the terms or conditions of such license, permit or pass, or

(*c*) if the holder thereof is convicted of any offence against this Act or any other law for the time being in force relating to ábkári-revenue or of any criminal offence.

VIII.—General Provisions.

Certain licensees required to keep measures, etc.

33. Every person who manufactures or sells liquor under a license granted under this Act shall be bound—

(*a*) to supply himself with such measures and with such instruments for

[1] For notifications issued under this clause, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. LXXXII.

[2] This proviso was added by the Bombay Ábkári Act Amendment Act, 1892 (Bom. Act 3 of 1892), s. 2A, Vol. III of this Code.

[3] This addition was made to section 31 by the Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 11, Vol. IV of this Code.

testing the strength or quality of liquor as the Collector prescribes and to keep the same in good condition, and

(*b*) on the requisition of any Ábkári officer duly empowered in this behalf at any time to measure out or test the strength or quality of any liquor in his possession in such manner as the said Ábkári-officer may require.

Recovery of duties, etc.

34. All duties, taxes, fines and fees leviable under any of the foregoing provisions of this Act or of any license, permit or pass issued under it, and all amounts due from any farmer under this Act, may be recovered from the person primarily liable to pay the same, or from his surety (if any) as if they were arrears of land-revenue.

IX.—Powers of Ábkári officers.

Power to Commissioners to frame rules.

35. The Commissioners may from time to time frame [1] rules—

(*a*) regulating the mode in which toddy may be supplied to licensed vendors of the same, or to persons who use it in the manufacture of other liquor;

(*b*) determining the number of licenses of each description to be granted in any district or place;

(*c*) regulating the number, size and description of stills to be used in any distillery;

(*d*) providing for the inspection and supervision of stills, distilleries and breweries;

(*e*) for the management of any public distillery established under section 15;

(*f*) [2] for placing the cultivation of hemp, the preparation of intoxicating drugs, and the storage, import, export, transport or removal of liquor, hemp or intoxicating drugs under such supervision as may be deemed necessary for the purposes of this Act, and for carrying into effect the provisions of section 27A or any part thereof;

(*g*) prescribing the occasions on which special orders may be granted under section 17 for the retail-sale of larger quantities of country

[1] For rules issued under section 35, *see* list prefixed to the Bombay Local Rules and Orders, Vol. II, Ed. 1898, pp. LXXXIII to LXXXVII.

[2] Clause (*f*) of section 35 was substituted by the Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 12, Vol. IV of this Code.
The original clause was as follows :—

"For placing the preparation of intoxicating drugs, and the storage, import, export, transport or removal of liquor or intoxicating drugs under such supervision as may be deemed necessary for the purposes of this Act."

liquor or intoxicating drugs than are prescribed in any notification issued under the said section, and the conditions on which such sales may be made;

(*h*) prohibiting the use of any article which they shall deem to be noxious or otherwise objectionable in the manufacture of liquor or of any intoxicating drug.

Powers exerciseable by Ábkári-officers on information that liquor, etc., is unlawfully manufactured, etc.

36. [1] Any Commissioner or Collector, or other Abkári-officer duly empowered in this behalf, may—

(*a*) enter and inspect, at any time by day or by night any [2][warehouse] shop or premises in which any licensed manufacturer or vendor carries on the manufacture or sale of any liquor,[3][hemp] or intoxicating drug, or draws toddy, or stores any such liquor, [3][hemp] or drug, and examine, test, measure or weigh any such person's stock of liquor, [3][hemp] drugs or materials; or

(*b*) enter, at any time by day or by night any building, vessel or enclosed place in which he has reason to believe that liquor, [3][hemp] or any intoxicating drug liable to confiscation under this Act is manufactured, kept or concealed, or that toddy is drawn or that any still, utensil, implement or apparatus is used, kept or concealed for the purpose of manufacturing liquor or any intoxicating drug contrary to the provisions of this Act; and

(*c*) in case of resistance, break open any door and remove any other obstacle to his entry into any such shop, premises, building, vessel or other place; and

(*d*) seize any liquor, [3][hemp] or drug and any material used in the manufacture thereof, and any still, utensil, implement or apparatus and any other thing which he has reason to believe to be liable to confiscation under this Act, or under any other law for the time being in force relating to ábkári-revenue; and

(*e*) detain and search and, if he think proper, arrest any person whom he has reason to believe to be guilty of any offence under this or any other law for the time being in force relating to ábkári revenue.

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[1] For notifications issued under section 36, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. LXXXVII.

[2] This word was inserted by Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 13, Vol. IV of this Code.

[3] The word "hemp" was inserted in section 36 by Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 13, Vol. IV of this Code.

Power to seize liquor, etc., in open places, and to detain, search and arrest.

37. Any Commissioner or Collector, or other Ábkári-officer duly empowered in this behalf, may—

(*a*) seize in any open place, or in transit, any liquor, [1][hemp] or intoxicating drug or any other thing which he has reason to believe to be liable to confiscation under this or any other law for the time being in force relating to ábkári-revenue;

(*b*) detain and search any person whom he has reason to believe to be guilty of any offence against this or any other such law, and, if such person has any such liquor, [1][hemp] drug or other thing in his possession, arrest him.

Searches how made.

X of 1882.

38. All searches under the two last preceding sections shall be made in accordance with the provisions of the [2]Code of Criminal Procedure.

Officers of certain departments bound to assist.

39. All officers of the departments of Police, Customs, Salt, Opium or Revenue, or of the Bombay Port-trust, shall be legally bound to assist any Ábkári-officer in carrying out the provisions of this Act.

Issue of warrants.

40. Any Commissioner, or Collector, or other Ábkári-officer duly empowered in this behalf, or a Magistrate may issue a warrant—

(*a*) for the arrest of any person whom he has reason to believe to have committed an offence against this or any other law relating to ábkári-revenue for the time being in force, or

(*b*) for the search, whether by day or by night, of any building, vessel or place in which he has reason to believe that any liquor, [1][hemp] or intoxicating drug is manufactured or sold or that any toddy is drawn contrary to the provisions of this Act or that any liquor, [1][hemp], intoxicating drug or other thing liable to confiscation under this or any other law for the time being in force relating to ábkári-revenue is kept or concealed.

All warrants issued under this section shall be executed in accordance with the provisions of the [2]Code of Criminal Procedure by a Police-officer or by an Ábkári-officer duly empowered in this behalf or, if the officer issuing the warrant deems fit, by any other person.

X of 1882.

Disposal of person arrested or thing seized.

41. Every person arrested and thing seized under section 36, 37 or 40 shall be forwarded without delay to the officer in charge of the nearest Police-station who shall inquire into and deal with the case as one of an offence for which the Police may arrest without a warrant.

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[1] The word "hemp" was inserted in sections 37 and 40 by the Bombay Ábkari Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 4, Vol. IV of this Code.

[2] *See* now Act 5 of 1898, as modified up to 1st April, 1903.

Closing of shop for sake of public peace.

42. It shall be lawful for the Collector by notice in writing to the licensee to require that any shop in which liquor or any intoxicating drug is sold by retail shall be closed at such times as he may deem it necessary for the sake of public peace and order that such shop should remain closed.

In the event of the occurrence of a riot or unlawful assembly in the vicinity of any such shop, it shall be lawful for any Magistrate or Police-officer who is present to require such shop to be kept closed for such period as he deems fit.

X.—Penalties.

For illegal import, etc.

43. [1](*1*) Whoever, in contravention of this Act, or of any rule or order made under this Act, or of any license, permit or pass obtained under this Act,—

(*a*) imports or exports liquor, [2][hemp] or any intoxicating drug into or out of any part of the Presidency of Bombay, or

(*b*) transports or removes liquor, [2][hemp] or any intoxicating drug from one place to another, or

(*c*) manufactures liquor or any intoxicating drug, or

(*d*) draws toddy from any tree, or

(*e*) constructs or works any distillery or brewery, or

(*f*) uses, keeps or has in his possession any material, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing liquor or any intoxicating drug, or

(*g*) sells liquor, [2][hemp] or any intoxicating drug, [or]

[3][(*h*) cultivates hemp],

shall be punished for each such offence with fine which may extend to one thousand rupees or with imprisonment for a term which may extend to six months, or with both.

[4](*2*) Whoever, in contravention of this Act or of any rule or order made under this Act or of any license, permit or pass granted under this Act, imports, exports, collects, transports, sells or has in his possession mhowra flowers, shall be punished for each such offence with fine which may extend to five hundred rupees or with imprisonment which may extend to three months or with both : Provided that no person shall be punished in respect

[1] By the Bombay Ábkári Act Amendment Act, 1892 (Bom. Act 3 of 1892), s. 3, it was directed that the original s. 43 be numbered and cited as sub-section (1) of s. 43. *See* Vol. III of this Code.

[2] The word "hemp" was inserted in section 43 by the Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 14, Vol. IV of this Code.

[3] The word or & cl: (*h*) were inserted by the Bombay Ábkári Act Amendment Act, 1901 (Bombay Act 5 of 1901), s. 14, Vol. IV of this Code.

[4] This sub-section was added by the Bombay Ábkári Act Amendment Act, 1892 (Bom. Act 3 of 1892), s. 3, Vol. III of this Code.

of any mhówra flowers which are either growing on a tree or are lying uncollected on the ground as they have fallen from a tree.

For neglect to keep measures, etc.

44. Whoever, in contravention of this Act, or of any rule or order made under this Act, or of any license, permit or pass obtained under this Act,—

(*a*) neglects to supply himself with measures for measuring liquor or with instruments for testing the strength of liquor or to keep the same in good condition, or

(*b*) refuses to measure or test the strength or quality of any liquor in his possession,

shall be punished for each such offence with fine which may extend to two hundred rupees.

For misconduct by licensee, etc

45. Whoever, being the holder of a license, permit or pass granted under this Act,—

(*a*) fails to produce such license, permit or pass on the demand of any Ábkári-officer duly [1]empowered to make such demand, or of any officer of the departments named in section 39 superior in rank to a peon or constable, or

(*b*) wilfully does, or omits to do, anything in contravention of any rules or orders made under this Act, or

(*c*) commits any act in breach of any of the conditions of his license not otherwise provided for in this Act, or

(*d*) wilfully contravenes any rule prescribed by a Commissioner for the management of a public distillery established under section 15, [2]* * * or

(*e*) commits any act in breach of the conditions on which he is permitted to manufacture liquor in any such public distillery, or

(*f*) permits drunkenness, riot or gaming in any shop or place in which such liquor or drug is sold or manufactured, or

(*g*) permits persons of notoriously bad character to meet or remain in any such shop or place,

shall be punished for each such offence with fine which may extend to one hundred rupees.

For misconduct by licensed vendor or manufacturer.

46. Whoever, being the holder of a license for the sale or manufacture of liquor or of any intoxicating drug under this Act,—

(*a*) mixes or permits to be mixed with the liquor or intoxicating drug

[1] For notifications issued under section 45, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, p. LXXXVII.

[2] The words " of this Act " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bombay Act 1 of 1904), Vol. IV of this Code.

sold or manufactured by him any noxious drug or any foreign ingredient likely to add to its actual or apparent intoxicating quality or strength, or any article prohibited by any rule made under section 35, clause (*h*), when such admixture shall not amount to the offence of adulteration under section 272 of the [1] Indian Penal Code, XLV of 1860.

(*b*) sells or keeps, or exposes for sale, as European or foreign liquor, liquor which he knows or has reason to believe to be country-liquor, or

(*c*) marks the cork of any bottle, or any bottle, case, package or other receptacle, containing country-liquor, or uses any bottle, case, package or other receptacle containing country-liquor, with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains European or foreign liquor, when such act shall not amount to the offence of using a false trade-mark with intent to deceive or injure any person under section 482 of the [1] Indian Penal Code, XLV of 1860. or

(*d*) sells or keeps, or exposes for sale, any country-liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains European or foreign liquor, when such act shall not amount to the offence of selling goods marked with a counterfeit trade-mark under section 486 of the [1] Indian Penal Code. XLV of 1860.

shall be punished for each such offence with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

For illegal possession of liquor, etc.

47. Whoever, except under the authority of some license, permit, pass or special order obtained under this Act, has in his possession within any local area or place to which the provision of section 17 has been applied, any larger quantity of country-liquor or of any intoxicating drug than may legally be sold by retail under the provision of the said section, shall be punished with fine which may extend to two hundred rupees.

For maliciously giving false information.

48. Whoever maliciously gives false information that any person has committed, or been concerned in, any offence against this Act, with the intent that such person be arrested, or that any building, vessel or other place be searched to the injury or annoyance of such person or of any other person,

[1] For Act 45 of 1860, *see* the reprint as modified up to 1st April, 1903.

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

For vexatious search or arrest.

49. Any Ábkári or other officer who, without reasonable ground of suspicion, enters or searches, or causes to be searched, any building, vessel or place,

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act,

or vexatiously and unnecessarily detains, searches or arrests any person,

shall, for every such offence, be punished with fine which may extend to five hundred rupees.

For vexatious delay.

50. Any Abkári or other officer or person who vexatiously and unnecessarily delays forwarding to the officer in charge of the nearest Police-station, as required by section 41 * * [1] any person arrested, or any illicit articles seized under this Act, shall be punished with fine which may extend to two hundred rupees.

For conniving at escape of persons arrested, etc.

51. Any Ábkári or other officer who unlawfully releases or connives at the escape of any person arrested under this Act, or connives at the commission of any offence against this Act, or

acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the ábkári-revenue defrauded,

and any officer of any other department named in section 39 invested with local jurisdiction who connives at the commission of any offence against this Act in any place within his jurisdiction,

shall, for every such offence, be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

For neglecting to assist an Ábkári officer.

52. Any officer of any of the departments named in section 39 who, without lawful excuse, neglects or refuses to assist any Ábkári-officer in carrying out the provisions of this Act, shall be punished with fine which may extend to five hundred rupees.

Presumption as to commission of offence in certain cases.

53. In prosecutions under section 43 or section 47, it shall be presumed, until the contrary is proved, that the accused person has committed an offence under those sections in respect of any liquor [2] [or hemp] or intoxicating

[1] The words " of this Act, " were repealed by the Bombay General Clauses Act, 1886, (Bom. Act 3 of 1886), Schedule B. This Schedule has been reprinted as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] These words were inserted in section 53 by the Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 15, Vol. IV of this Code.

drug, or any still, utensil, implement or apparatus whatsoever for the manufacture of liquor or intoxicating drugs, [1][or mhowra flowers], or any such materials as are ordinarily used in the manufacture of liquor or of any intoxicating drug, for the possession of which he is unable to account satisfactorily;

and the holder of a license, permit or pass under this Act shall be responsible, as well as the actual offender, for any offence committed by any person in his employ or acting on his behalf under sections 43, 44, 45, or 46 as if he had himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence.

What things liable to confiscation.

[2]**54.** All liquor, hemp, mhowra flowers, or intoxicating drugs imported, exported, transported, removed, manufactured, sold, or had in possession, and all hemp cultivated, in contravention of this Act or of any rule or order made under this Act, or of any license, permit or pass obtained under this Act, and

all toddy drawn from any tree in contravention of this Act, or of any such rule, order, license, permit or pass as aforesaid, and

all liquor, if any, all hemp, if any, all mhowra flowers, if any, and all intoxicating drugs, if any, lawfully imported, exported, transported, removed, manufactured, sold, or had in possession, and all toddy, if any, lawfully drawn, along with or in addition to any liquor, hemp, mhowra flowers, or intoxicating drugs, imported, exported, transported, removed, manufactured, sold or had in possession, or along with or in addition to any toddy drawn as aforesaid and

all stills, utensils, implements or apparatus whatsoever for the manufacture of liquor or of any intoxicating drug used, kept or had in possession in contravention of this Act, or of any rule or order made under this Act, or of any license obtained under this Act, and

all materials collected, or had in possession for the purpose of unlawfully manufacturing liquor or any intoxicating drug, and

the vessels, packages, and coverings, in which any liquor, hemp, mhowra flowers, intoxicating drug, still, utensil, implement, apparatus or material aforesaid, is found, and the other contents, if any, of the vessel or package, in

[1] These words were inserted in section 53 by the Bombay Ábkári Act Amendment Act, 1892 (Bom. Act 3 of 1892), s. 4, Vol. IV of this Code.

[2] S. 54 was substituted by s. 10 of the Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), Vol. IV of this Code. The present section is the same as the original save that it provides against the unlawful possession, etc., also of "hemp and mhowra flowers," in addition to liquor and intoxicating drugs.

which the same is found, and the animals, carts, vessels, or other conveyances used in carrying the same,

shall be liable to confiscation.

Order of confiscation by whom to be made.

55. All confiscations under this Act shall be adjudged by the Collector:

Provided that no order of confiscation shall be made until the expiration of one month from the date of seizing the things intended to be confiscated, or without hearing any person who claims a right thereto, and the evidence, if any, which he produces in support of his claim.

Redemption may be allowed.

Whenever confiscation is ordered under this Act, the owner of the thing ordered to be confiscated may, at the discretion of the Collector, be given an option of redeeming it on payment of such fine as the Collector thinks fit.

XI.—Procedure.

Cognizance of offences.

56. All offences against this Act shall be cognizable by a Magistrate.

57. [*Applicability of certain portions of Indian Penal Code.*] *Rep. Bom. Act III of 1886.*

Disposal of things confiscated.

58. All things confiscated under this Act shall be disposed of in such manner as the Commissioners from time to time direct in rules [1] or orders made either generally or in any particular instance in this behalf.

Procedure in case of illegal cultivation of hemp.

[2] **58A.** In the case of alleged illegal cultivation of hemp, the crop shall not be removed, but shall, pending the disposal of the case, be attached by an Ábkári-officer duly empowered in this behalf, and such officer shall require the cultivator to give bail in a reasonable amount (to be fixed by such officer) for his appearance before the Magistrate by whom the case is to be disposed of, and such cultivator shall not be arrested, unless within a reasonable time he fails to give such bail.

Payment of rewards.

59. Government may from time to time make rules for regulating the payment of rewards to officers and informers out of the proceeds of fines and confiscations under this Act.

Appeals.

60. All orders passed by any Ábkári-officer other than the Collector or Commissioner under this Act shall be appealable to the Collector at any time within sixty days from the date of the order complained of.

All orders passed by a Collector or Commissioner shall be appealable to the Commissioner or to Government, respectively, at any time within ninety days from the date of the order complained of:

[1] For rules as to the disposal of confiscated things in the Bombay Presidency and in Sindh, *see* Bombay Government Gazette, 1879, Pt. I, p. 467, and the Sindh Official Gazette, 1879, Pt. I, p. 636, and for those regarding the grant of rewards, *see* Bombay Government Gazette, 1888, Pt. I, p. 786.

[2] Section 58A was inserted by the Bombay Ábkári Act Amendment Act, 1901 (Bom. Act 5 of 1901), s. 17, Vol IV of this Code.

Provided that no appeal shall lie against an order passed by a Commissioner on appeal.

Subject to the foregoing provisions, the rules for the time being in force relating to appeals in the Revenue Department shall apply to appeals under this Act.

XII.—MISCELLANEOUS.

Saving of certain Acts.

61. Nothing in this Act affects [1]Act XVIII of 1853 (*an Act for regulating the sale of spirituous liquors, etc., in cantonments*) or sections twenty-one to twenty-seven, both inclusive, of Bombay [1] Act III of 1867 (*an Act to make provision for the administration of Military Cantonments in the Bombay Presidency*) or [2] Act XVI of 1863 (*an Act to make special provision for the levy of the excise-duty payable on spirits used exclusively in arts and manufactures or in chemistry*), or any enactment passed by the Governor General in Council since the 16th November, 1861, the date on which the [3] Indian Councils Act came into force. 24 & 25 Vict., c. 67.

Exception of medicated articles.

62. Nothing in the foregoing provisions of this Act applies to the manufacture, sale or supply of any *bonâ fide* medicated article for medicinal purposes by medical practitioners, chemists, druggists, apothecaries or keepers of dispensaries; but it shall be lawful for Government at any time, by notification in the *Bombay Government Gazette*, to prohibit the sale of any such article within any defined local area or place except under a license from the Collector, which shall be granted on payment of such fees and subject to such conditions as Government may deem fit to prescribe.

Annual payment to Bombay Municipal Corporation in lieu of money received under Bombay Act IX of 1867.

63. Whereas it was provided by section 14 of [4] Bombay Act IX of 1867 that all money realized, collected or obtained by the issue of licenses, or by forfeitures or by imposition or infliction of fines and penalties under the said Act should be carried to the credit of the municipal fund of the City of Bombay for municipal purposes, it is hereby enacted that, in lieu of the money hitherto so received by the Municipal Corporation of the City of Bombay, a fixed sum of Rs. 1,43,750 shall, from and after the first day of August, 1878, be annually paid by Government to the said Corporation for the said purposes.

64-66. [*Certain rights to cease.*] *Rep. Act XVI of 1895.*

Bar of action.

67. No action shall lie against Government or against any Ábkári-officer for damages in any Civil Court for any act *bonâ fide* done or ordered to be

[1] *See* now the Cantonments Act of 1889 (13 of 1889) General Acts, Vol. V, p. 335, by which these two Acts are repealed.
[2] Genl. Acts, Vol. I.
[3] Collection of Statutes relating to India, Vol. I, Ed. 1899, p. 341.
[4] Bom. Act 9 of 1867 is repealed by s. 2 of this Act.

done by them in pursuance of this Act, or of any law at the time in force relating to ábkári-revenue;

and all prosecutions of any Ábkári-officer, and all actions which may be lawfully brought against Government or against any Ábkári-officer, in respect of anything done, or alleged to have been done, in pursuance of this Act, shall be instituted within four months from the date of the act complained of, and not afterwards;

and any such action shall be dismissed—

(*a*) if the plaintiff does not prove that, previously to bringing such action, he has presented all such appeals allowed by this Act, or by any other law for the time being in force, as within the aforesaid period of four months it was possible to present; or,

(*b*) in the case of an action for damages, if tender of sufficient amends shall have been made before the action was brought, or if after the institution of the action a sufficient sum of money is paid into Court with costs, by or on behalf of the defendant:

Provided that nothing in this section shall be deemed to affect the power or jurisdiction of Her Majesty's High Court of Judicature or of the Court of Small Causes at Bombay.

SCHEDULE.

[*Enactments repealed.*]

Repealed by Act XVI of 1895.

THE KARÁCHI VACCINATION ACT, 1879.

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BOMBAY ACT No. IV OF 1879.[1]

[*27th June, 1879.*]

An Act to prohibit the practice of inoculation and to make the vaccination of children in the town of Karáchi compulsory.

WHEREAS it is expedient to prohibit the practice of inoculation and to make the vaccination of children in the town of Karáchi compulsory; It is enacted as follows :— Preamble.

PRELIMINARY.

1. This Act may be cited as the Karáchi Vaccination Act, 1879. Short title.

It extends only to the town of Karachi. Local extent.

It shall come into force on such [2] day as the Governor in Council directs by notification in the Bombay Government Gazette; and its operation may at any time be suspended by the Governor in Council by notification in the said Gazette. Commencement.

2. In this Act, unless there be something repugnant in the subject or context,— Interpretation-clause.

(*1*) "parent" includes the father and mother of a legitimate child and the mother of an illegitimate child :

(*2*) "guardian" means any person to whom the care, nurture or custody of any child falls by law, or by natural right or recognized usage, or who has accepted or assumed the care, nurture or custody of any child, or to

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1878, Pt. V, p. 82; for Report of the Select Committee, *see ibid*, p. 105, and for Proceedings in Council, *see ibid*, p. 91; *ibid*, 1879, p. 11.

[2] The 1st September, 1879—*see* Bombay Government Gazette, 1879, Pt. I, p. 690.

whom the care or custody of any child has been entrusted by any authority lawfully authorized in that behalf :

(3) "public vaccinator" means any vaccinator appointed under this Act or any deputy duly authorized to act for such public vaccinator :

(4) "medical practitioner" means any person duly qualified by a diploma, degree or license to practise in medicine or surgery, or specially licensed by the Governor in Council to practise vaccination and grant certificates under the provisions of this Act :

(5) "unprotected child" means a child who has not been protected from small-pox by having had that disease either naturally or by inoculation, or by having been successfully vaccinated, and who has not been certified under the provisions of this Act to be insusceptible to vaccination :

(6) "animal-lymph" means vaccine taken from the calf.

ESTABLISHMENT.

Vaccination districts.

3. For the purposes of this Act the Civil Surgeon of Karáchi, or such other officer as Government directs, shall divide the town of Karáchi into as many districts for the performance of vaccination as he shall from time to time deem fit. Each such district shall be called a "vaccination-district."

Appointment of public vaccinators.

The Civil Surgeon or other officer aforesaid shall appoint a public vaccinator for every vaccination-district, and shall appoint such places as he shall from time to time deem fit in each district to be stations for the performance of vaccination.

Public vaccine-stations.

Such stations shall be called "public vaccine-stations."

Every such public vaccinator shall be removeable from office by the Civil Surgeon or other officer aforesaid.

Notification of districts and stations.

The limits of the vaccination-districts made, and the positions of the public vaccine-stations fixed, under the provisions of this section, and the days and hours of the public vaccinator's attendance at each station, shall be published from time to time in such manner as shall be directed in rules to be framed under section 31.[1] * *

Public vaccinator to live within his district.

4. Every public vaccinator, unless specially permitted by the Civil Surgeon or other officer aforesaid to reside elsewhere, shall reside within the district for which he is appointed, and shall cause his name, with the addition of the words "Public Vaccinator for the District of ," to be posted up in some conspicuous place on or near the outer door of his dwelling-house and of every public vaccine-station in his district.

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886, (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

Qualifications of public vaccinator.

5. No person shall be appointed a public vaccinator, or act as a deputy for a public vaccinator, who shall not possess a certificate of qualification signed by the Civil Surgeon or other officer aforesaid.

Superintendent of Vaccination.

6. A Superintendent of Vaccination shall be appointed by Government who, subject to the orders of the Civil Surgeon or other officer aforesaid, shall have a general control over all the proceedings of public vaccinators, and shall perform such duties, in addition to those prescribed by this Act, as shall be required by Government.

Assistant Superintendents.

The Superintendent shall have, if necessary, one or more assistants as Government may from time to time direct.

VACCINATION.

Parent or guardian of children born, and of unprotected children brought to reside, in Karáchi,

7. The parent or guardian of every child born in the town of Karáchi shall, within six months after the birth of such child, and

the parent or guardian of every unprotected child under the age of fourteen years brought to reside, whether temporarily or permanently, in the town of Karáchi, shall, within three months after such child's arrival in the town, or if the child be at the time of its arrival less than three months old, within six months after its birth, *[1]

[1] * * * * * * * *

must procure their vaccination.

take it, or cause it to be taken, to a public vaccinator to be vaccinated, or shall, within such period as aforesaid, cause it to be vaccinated by some medical practitioner;

Public vaccinator bound to vaccinate all children brought to him.

and the public vaccinator to whom such child, or to whom any child under the age of fourteen years, is brought for vaccination, is hereby required, with all reasonable despatch, subject to the conditions hereinafter mentioned, to vaccinate such child.

Inspection.

8. At an appointed hour upon the same day in the following week after vaccination shall have been performed by a public vaccinator or a medical practitioner, or on [2][any earlier or later day], if the public vaccinator or medical practitioner so desires, the parent or guardian shall again take the child, or cause it to be taken, to the public vaccinator or to the medical practitioner by whom the operation was performed, that he may inspect it and ascertain the result of the operation.

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[1] The word "and" and the clause "the parent or guardian of every unprotected child living in the town of Karáchi at the date of this Act coming into force, and whose age at such date exceeds six months, but does not exceed fourteen years, shall, within six months from the same date" were repealed by the Repealing and Amending Act, 1895 (16 of 1895).

[2] These words were substituted for the words "an earlier day" by the Vaccination Act Amendment Act, 1882 (Bom. Act 3 of 1882), s. 2, *infra*, p. 799.

Re-vaccination.

In the event of the vaccination being unsuccessful, such parent or guardian shall, if the public vaccinator or medical practitioner so direct, cause the child to be forthwith again vaccinated and subsequently inspected as on the previous occasion.

If child unfit for vaccination, certificate in form A to be given.

9. If any public vaccinator or medical practitioner shall be of opinion that any child is not in a fit state to be vaccinated, he shall forthwith deliver to the parent or guardian of such child a certificate under his hand, according to the form of Schedule A * * [1] or to the like effect, that the child is then in a state unfit for vaccination.

Certificate to remain in force for two months, but renewable.

The said certificate shall remain in force for two months only, but shall be renewable for successive periods of two months until a public vaccinator or medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated and a certificate of successful vaccination given in the form of Schedule C * *[1] according to the provisions of section 11 * * *[2], if warranted by the result.

When successive postponement-certificates to be granted.

At or before the end of each successive period, the parent or guardian shall take, or cause the child to be taken, to some public vaccinator or medical practitioner, who shall then examine the child and give a fresh certificate according to the said form A, so long as he deems requisite under the circumstances of the case.

Provision for giving certificates of insusceptibility to successful vaccination.

10. If any public vaccinator or medical practitioner shall find that a child whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination, or that a child brought to him for vaccination has already had the small-pox, he shall deliver to the parent or guardian of such child a certificate under his hand, according to the form of Schedule B * *[1] or to the like effect, and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.

Provision for giving certificates of successful vaccination.

11. Every public vaccinator or medical practitioner who shall have performed the operation of vaccination upon any child, and shall have ascertained that the same has been successful, shall deliver to the parent or guardian of such child a certificate, according to the form of Schedule C * *[1] or to the like effect, certifying that the said child has been successfully vaccinated.

Vaccination must ordinarily be performed with animal-lymph.

12. Except as is hereinafter otherwise provided, the vaccination of a child under the provisions of this Act must, if the parent or guardian of the child so require, be performed with animal-lymph;

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[1] The words "hereto annexed" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

but it shall at any time be lawful for the Governor in Council, on its being shown to his satisfaction that animal-lymph is not procurable, to direct, by notification in the Bombay Government Gazette,—

(*a*) that, during such period as he may deem fit to appoint, the vaccination of children may, without the assent of the parents or guardians of such children, be performed with lymph taken from a human being; and

(*b*) that the public vaccinatoror medical practitioner to whom at any time during the said period a vaccinated child is brought under the provisions of section 8 * * [1] for inspection, may, if he see fit, take from such child lymph for the performance of other vaccinations.

No fee for vaccination or for certificates.

13. No fee or remuneration shall be charged by any public vaccinator to the parent or guardian of any child for any such certificate as aforesaid, nor for any vaccination done by him in pursuance of this Act at a public vaccine-station:

Proviso.

But it shall be lawful for a public vaccinator to accept a fee for vaccinating a child, by request of the parent or guardian, elsewhere than at a public vaccine-station.

REGISTRATION.

Registrar of Births to give notice of requirement of vaccination.

14. On the registration of the birth of any child under the provisions of the bye-laws of the Karáchi Municipality, or of any other law for the time being in force, the Registrar shall deliver to the person giving information of such birth a printed notice in the form of Schedule D * * * [2], or to the like effect, and such notice shall have attached thereto the several forms of certificates prescribed by this Act.

Duplicates of certificates to be transmitted to Registrar.

15. Every public vaccinator or medical practitioner who gives to any parent or guardian a certificate in any of the forms of Schedules A, B and C * * * [2] shall within twenty-one days after giving the same, transmit a duplicate thereof to the Registrar of Births of the district where the birth of the child on whose account such certificate was given has been registered, or if that be not known to him, or if the child was born out of the town of Karáchi, or his birth has not been registered in the said city, to the Registrar of the district within which the child was vaccinated, or presented for vaccination.

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[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words "hereto annexed" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

Registrar to keep vaccination-notice and certificate-book;

16. The Registrar of Births shall keep a book, in such form as may from time to time be prescribed by the Civil Surgeon or other officer under section 29 * * [1], in which he shall enter minutes of the notices of vaccination given by him as herein required, and shall also register the duplicates of certificates transmitted to him as herein provided.

also duplicate register of births, with entries concerning vaccination;

17. He shall also prepare and keep a duplicate of the register of births required to be kept by him under the provisions of the bye-laws at the Karáchi Municipality or of any other law for the time being in force, with such additional columns as shall from time to time be prescribed by the Civil Surgeon or other officer under section 29 * * [1], in which he shall record the date of every duplicate certificate in the form of Schedule B or Schedule C * * * [2] received by him concerning any child whose birth he has registered, and make an entry to the effect that the child has been vaccinated, or is insusceptible of vaccination, as the case may be.

and also register of postponed vaccinations.

18. He shall also keep a register of postponed vaccinations in the form of Schedule E * * * [2], in which he shall record the name of every child concerning whom he receives a duplicate certificate in the form of Schedule A [2] * * *, together with the date of such duplicate certificate and of each such successive duplicate certificate, if he receives more than one, and shall show the number and year of the entry, if any, in the register of births in which such child's birth has been registered.

Transmission of returns to Superintendent.

19. Every Registrar shall transmit on the first of every month to the Superintendent of Vaccination a return, in such form as may from time to time be prescribed by the Civil Surgeon or other officer under section 29 [1] * * *, of all cases in which duplicate certificates have not been duly received by him in pursuance of the provisions of this Act during the last preceding month.

PROSECUTIONS AND OFFENCES.

Penalty for inoculating,

20. Whoever produces, or attempts to produce, in any person by inoculation with variolous matter or by wilful exposure to variolous matter, or to anything impregnated therewith, or who wilfully by any other means produces the disease of small-pox in any person;

and for entering Town of Karáchi after inoculation.

and whoever, having been inoculated with small-pox in a place to which this Act does not extend, shall afterwards enter the Town of Karáchi before the expiration of forty days from the date of such inoculation, or without a

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words "hereto annexed" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

certificate from a medical practitioner that such person is no longer likely to cause contagion ;

and whoever, having the charge, custody or control of any person so inoculated, shall within such period, or without such certificate, as aforesaid, knowingly bring such person into, or permit such person to enter, the Town of Karáchi,

shall be punished with imprisonment [1] * * * * for a term which may extend to three months, or [2] [with] fine which may extend to two hundred rupees, or with both.

Magistrate may make order for vaccination of unprotected child under fourteen years.

21. If the Superintendent of Vaccination shall give information in writing to a Magistrate that he has reason to believe that any child within the Town of Karáchi, under the age of fourteen years, is an unprotected child, and that he has given notice to the parent or guardian of such child to procure its being vaccinated, and that the said notice has been disregarded, such Magistrate may summon such parent or guardian to appear with the child before him, and if the Magistrate shall find, after such examination as he shall deem necessary, that the child is an unprotected child, he may make an order directing such child to be vaccinated within a certain time.

Penalty for disobedience of order.

If, at the expiration of such time, the child shall not have been vaccinated or shall not be shown to be then unfit to be vaccinated, or to be insusceptible of vaccination, the person upon whom such order shall have been made shall, unless he can show some reasonable ground for his omission to carry the order into effect, be punished with fine which may extend to fifty rupees :

Proviso for costs to person improperly summoned.

Provided that, if the Magistrate shall be of opinion that the person is improperly brought before him, and shall refuse to make an order for the vaccination of the child, he may order the informant to pay to such person such sum of money as he shall consider a fair compensation for his expenses and loss of time in attending before the Magistrate.

Penalty for not producing child.

22. If any parent or guardian intentionally omits to produce a child whom he has been summoned to produce under the last preceding section, he shall be punished with simple imprisonment within the meaning of the XLV of 1860. [3]Indian Penal Code for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

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[1] The words " of either description, within the meaning of the Indian Penal Code " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] " With " was substituted for " to " by the Amending Act, 1895 (16 of 1895), Vol. III of this Code.

[3] For Act 45 of 1860, *see* the reprint as modified up to 1st April, 1903.

Penalty for neglect to take child to be vaccinated, etc.

23. Whoever, in contravention of this Act,—

(*a*) neglects, without reasonable excuse, to take or cause a child to be taken, to be vaccinated, or after vaccination to be inspected; or

(*b*) at any time during the period for which any notification made under section 12 * * [1] is in force, prevents any public vaccinator from taking lymph from any child whom he has vaccinated: or

(*c*) neglects to fill up and sign and give to the parent or guardian of any child any certificate which such parent or guardian is entitled to receive from him, or to transmit a duplicate of the same to the Registrar of Births,

shall be punished for each such offence with fine which may extend to fifty rupees.

Penalty for making or signing false certificate.

24. Whoever wilfully signs or makes, or procures the signing or making of a false certificate, or duplicate certificate under this Act, shall be punished with imprisonment [2] * * * * for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Penalty for accepting illegal fee or remuneration.

25. If any public vaccinator accepts or obtains, or agrees to accept or attempts to obtain, from any person any fee or remuneration, contrary to the provisions of section 13 * * [1] he shall be deemed to have committed an offence punishable under section 161 of the [3] Indian Penal Code. XLV of 1860.

Cognizance of offences.

26. All offences under this Act shall be cognizable by a Magistrate of the first class, subject to the provisions of any law for the time being in force for the trial of offences, but no complaint of any such offence shall be entertained unless the prosecution be instituted by order of, or under authority from, Government or the Superintendent of Vaccination.

Prosecution for neglect.

27. In any prosecution for neglect to procure the vaccination of a child, it shall not be necessary in support thereof to prove that the defendant had received notice from the Registrar or any other officer of the requirements of the law in this respect; but if the defendant produce any such certificate as hereinbefore described, or the duplicate of the register of births or the register of postponed vaccinations kept by the Registrar as hereinbefore provided, in which such certificate shall be duly entered, the same shall be a sufficient defence for him, except, in regard to the certificate according to the form of Schedule A, when the time specified therein for the postponement of the

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words "of either description, within the meaning of the Indian Penal Code" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

[3] For Act 45 of 1860, *see* the revised edition, as modified up to 1st April, 1903.

vaccination shall have expired before the time when the information shall have been laid.

28. [*Recovery of fines.*] *Rep. Bom. Act III of 1886.*

MISCELLANEOUS.

Books and forms.

29. The Civil Surgeon of Karáchi, or such other officer as Government directs, shall frame and provide appropriate books and forms for the use of the public vaccinators, and also such forms as shall be required for the signature of medical practitioners under the provisions of this Act, and he shall also transmit to the Registrars such books and forms as are required by them under the provisions of this Act.

Annual return of number of children vaccinated, etc.

30. It shall be the duty of the Registrar appointed under the bye-laws of the Karáchi Municipality to show in any annual general abstract of births and deaths prepared by him the number of children successfully vaccinated, the number whose vaccination has been postponed, and the number certified to be insusceptible to successful vaccination during the year.

Civil Surgeon of Karáchi to make rules.

31. The Civil Surgeon of Karáchi, or such other officer as Government directs, may, with the sanction of the Governor in Council, from time to time, make rules [1] or issue orders consistent with this Act—

(*a*) providing for the appointment of deputies of public vaccinators, when necessary ;

(*b*) determining the qualifications to be required of public vaccinators or their deputies, and regulating the grant of certificates of qualification under section 5 ;

(*c*) for the guidance of public vaccinators and others in all other matters connected with the working of this Act.

All such rules or orders shall be published in the *Bombay Government Gazette.*

SCHEDULE A.

(*See section 9.*)

I, the undersigned, hereby certify that, in my opinion, the child of , resident at in Karáchi, is not now in a fit and proper state to be vaccinated, and I do hereby postpone the vaccination for the period of two months from this date.

Dated this day of 18

(*Signature of Medical Practitioner or Public Vaccinator.*)

[1] For rules, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, pp. 532-535.

SCHEDULE B.

(*See section 10.*)

I, the undersigned, hereby certify that I have three times unsuccessfully vaccinated , the child of , residing at in Karáchi (*or* that the child has already had small-pox, *as the case may be*), and I am of opinion that the said child is insusceptible of successful vaccination.

Dated this day of 18 .

(*Signature of Medical Practitioner or Public Vaccinator.*)

SCHEDULE C.

(*See section 11.*)

I, the undersigned, hereby certify that the child of , age , resident at , in Karachi, has been successfully vaccinated by me.

Dated this day of 18

(*Signature of Medical Practitioner or Public Vaccinator.*)

SCHEDULE D.

(*See section 14.*)

To

(*Here insert the name of the parent, guardian or other person who gives information of the child's birth*).

Take notice that the child of (*here enter the mother's name*), whose birth has this day been registered, must be vaccinated under the provisions of the Karáchi Vaccination Act, 1879, within six months from the date of its birth under a penalty of [1] [fifty rupees].

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[1] These words were substituted for the words "ten rupees" by the Amending Act, 1895 (16 of 1895), Vol. III of this Code.

(*Schedule E.*)

The public vaccine-station nearest to the house in which the child was born is at No. . The days and hours for vaccination at that station are as follows:—

(*Here insert the days and the hours when the public vaccinator is in attendance.*)

On your taking, or causing the child to be taken, to the public vaccinator at the said station, within the said hours on any of the said days, or at any other public vaccine-station in the city on the days and within the hours prescribed for public vaccination at such station, it will be vaccinated free of charge.

You should be careful to have one of the annexed forms of certificates filled in by the public vaccinator, or, if you employ a private medical practitioner to vaccinate the child, by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by a public vaccinator free of charge.

Dated the of 187

Registrar of Births.

SCHEDULE E.

(*See section 18.*)

Register of postponed Vaccinations for the District of in Karáchi.

Consecutive Number.	Name of Child.	Birth.		Date of Certificate of Postponement.		Signature of Registrar.
		Year.	Number of Entry in Register.			
				1868.		
1	Venayek Pandurang.	1868	12	May	10	H. O.

THE BOMBAY LAND-REVENUE CODE, 1879.

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BOMBAY ACT No. V OF 1879.[1]

[*17th July, 1879.*]

An Act to consolidate and amend the law relating to Revenue-officers and the Land-revenue in the Presidency of Bombay.

WHEREAS it is expedient to consolidate and amend the law relating to Revenue-officers, and to the assessment and recovery of land-revenue, and to other matters connected with the land-revenue-administration; It is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be cited as the Bombay Land-revenue Code, 1879. Short title.

It extends to the whole of the Presidency of Bombay except the Scheduled Districts, as defined by [2] Act XIV of 1874 and the [3] City of Bombay. Local extent.

[*Commencement*]. *Rep.* [4] *Act XVI of 1895.*

2. The Regulations and Acts mentioned in the Schedule A * * *[5] are repealed to the extent specified in the third column thereof, but not so as to render invalid anything done in accordance with any of them. Enactments repealed.

All references made in any Bombay Regulation or in any Act of the Governor of Bombay in Council, or in any Act of the Governor General in

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1875, Pt. V, p. 62, and *ibid*, 1879, Pt. V, p. 81; for Reports of the Select Committee, *see ibid*, 1876, Pt. V, p. 166, and *ibid*, 1877, Pt. V, p. 74, and for Proceedings in Council, *see ibid*, 1875, Pt. V, p. 65, *ibid*, 1877, Pt. V, pp. 198, 210, 234, 252, 417, 418, *ibid*, 1878, Pt. V, p. 40, *ibid*, 1879, Pt. V, pp. 112 and 124.

The proceeds of all fees levied under this Act for permission to remove sand or to quarry are to be credited to the Local Fund constituted by the Bombay Local Boards Act, 1884 (Bom. Act 1 of 1884),—*see* s. 44 of the latter Act, *infra*, p. 847.

[2] General Acts, Vol. II, p. 467.

[3] Bombay Act 5 of 1879 has been declared in force in the whole of Sindh by Government Notification in the Revenue Department, No. 4956-B., dated the 30th June, 1904, *see* Appendix to Vol. I of this Code, p. 341.

Section 85 and the last 15 words of s. 58 are not in force in the Pánch Mahál—*see* the Pánch Mahál Laws Act, 1885 (7 of 1885), s. 2, Vol. I of this Code, p. 213.

Sections 68, 72, 73, 74, 99, cl. (*b*), 104, para. 2, 109, 110, 112, 150, cl. (*b*), and 153 of Bom. Act 5 of 1879, do not apply to any village in the district of Ratnágiri or the district of Kolába to which the Khoti Settlement Act, 1880, extends; and ss. 103, 118, 119, 123, 136, 150, cl. (*f*), and 162 of the Act are subject to modification when applied to any such village—*see* the Khoti Settlement Act, 1880 (Bom. Act 1 of 1880), ss. 1 and 39, *infra*, p. 776, and the Khoti Settlement Act Amendment Act, 1904 (Bombay Act 3 of 1904), s. 10, Vol. IV of this Code.

Sections 38 to 40, 44, 60 to 67, 76, 82, 85, 109, 110, 116, 127 to 136, 163, 216 and 217 of Bom. Act 5 of 1879 do not apply to any estate in the districts of Ahmedabad, Kaira, Broach or Pánch Mahál to which the Gujarát Tálugdárs Act, 1888, extends; and ss. 3, cl. (*l*), 46, 54, 79A, cl. (*a*), 88, 89, 94, 111, 113, 147, 150, cl. (*f*), 160, 162, 214, of the Act, and the words "occupant" "registered occupant" and "occupancy" throughout the Act, are subject to modification when applied to any such estate—*see* the Gujarát Tálugdárs Act, 1888 (Bom. Act 6 of 1888), ss. 1 and 33, Vol. III of this Code, and the Gujarát Tálugdárs (Amendment) Act, 1905 (Bom. Act II of 1905), s. 6, Vol. IV of this Code.

[4] Vol. I of this Code, p. 223.

[5] The words "hereto annexed" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

Council passed before the coming into operation of the [1] Indian Councils Act, 1861, to any enactment hereby repealed shall be read as if made to the corresponding portion of this Act. 24 & 25 Vict., c. 67.

And all rules prescribed, appointments made, securities furnished, powers conferred, orders issued and notifications published under any such enactment, and all other rules (if any) now in force and relating to any of the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, furnished, conferred, issued and published hereunder.

And all proceedings now pending, which have been commenced under any enactment hereby repealed, shall be deemed to have been commenced under this Act, and shall hereafter be conducted in accordance with the provisions of this Act.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

[2] (1) "Revenue-officer" means every officer of any rank whatsoever appointed under any of the provisions of this Act, and employed in or about the business of the land-revenue or of the surveys, assessment, accounts or records connected therewith [3][and for the purposes of sections 25 and 26 includes a village officer appointed or officiating under any of the provisions of the [4] Bombay Hereditary Offices Act or the [5] Matádárs Act, 1887]. Bom. Act III of 1874. Bom. Act VI of 1887.

(2) "Survey-officer" means an officer appointed under, or in the manner provided by, section 18 * * * [6]:

(3) the word "Collector" means the Collector of the district:

(4) "land" includes benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth, and also shares in, or charges on, the revenue or rent of villages, or other defined portions of territory:

(5) "estate" means any interest in lands and the aggregate of such interests vested in a person or aggregate of persons capable of holding the same:

(6) "survey-number" means a portion of land of which the area and other particulars are separately entered, under an indicative number in the survey-records of the village, town or city in which it is situated, and includes a recognized share of a survey-number:

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[1] Collection of Statutes relating to India, Ed. 1899, Vol. I, p. 341.

[2] As to the local modification of s. 3, cl. (*1*), *see* para. 4 of the third footnote on p. 631, *supra*.

[3] The words within square brackets were added by the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), Vol. IV of this Code.

[4] *Supra*, p. 521.

[5] *Supra* p. 936.

[6] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

(7) "recognized share of a survey-number" means a sub-division of a survey-number separately assessed and registered :

(8) "building-site" means a portion of land held for building purposes, whether any building be actually erected thereupon or not, and includes the open ground or court-yard enclosed by, or adjacent to, any building erected thereupon :

(9) "boundary-mark" means any erection, whether of earth, stone or other material, and also any hedge, [unploughed ridge, or] strip of ground, or other object whether natural or artificial, set up, employed or specified by a Survey-officer, or other Revenue-officer having authority in that behalf, in order to designate the boundary of any division of land :

(10) "to hold land" means to be legally invested with a right to the possession and enjoyment or disposal of such land, either immediate or at the termination of tenancies legally subsisting :

(11) "holder" or "landholder" signifies the person in whom a right to hold land is vested, whether solely on his own account, or wholly or partly in trust for another person, or for a class of persons, or for the public ; it includes a mortgagee vested with a right to possession :

(12) "holding" signifies land over which such right extends [2] :

(13) "superior holder" signifies a holder entitled to receive from other holders rent or land-revenue on account of lands held by them, whether he be accountable or not for the same, or any part thereof, to the Government :

(14) "inferior holder" signifies a holder liable to pay the rent or land-revenue to a superior holder, whether on account of such superior holder or Government :

(15) "tenant" signifies a person who holds by a right derived from a superior holder called his "landlord," or from his landlord's predecessor in title :

(16) "occupant" [3] signifies a holder of unalienated land, or, where there are more holders than one, the holder having the highest right in respect of any such land,

or where such highest right vests equally in more holders than one, any one of such holders :

(17) "registered occupant" [3] signifies a sole occupant or the eldest or principal of several joint occupants whose name is authorizedly entered in the Government records as holding unalienated land whether in person or by his co-occupant, tenant, agent, servant or other legal representative :

[1] These words were substituted for the word "vacant" by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 2, Vol. IV of this Code.

[2] See also ss. 47 and 64 as to definition of "holding" for purposes of those sections, *infra*, pp. 648 and 653 respectivly.

[3] As to the local modification of the words "occupant" and "registered occupant," *see* para. 4 of the third footnote on p. 631, *supra*.

(18) "occupancy" [1] signifies the sum of the rights vested in an occupant as such :

(19) "alienated" means transferred in so far as the rights of Government to payment of the rent or land-revenue are concerned, wholly or partially to the ownership of any person :

(20) the words "village, town or city" include all lands belonging to any village, town or city :

(21) the words "revenue-year" or "year" mean the period from, and exclusive of, the thirty-first July of one calendar year until, and inclusive of, the thirty-first July in the next calendar year.

(22) [*Definition of "section"*] *Rep. Bom. Act III of 1886, Schedule B*[2].

(23) [*Definition of "this chapter"*] *Rep. Bom. Act III of 1886, Schedule B*[2].

CHAPTER II.

CONSTITUTION AND POWERS OF REVENUE-OFFICERS.

Chief controlling authority in revenue-matters.

4. The chief controlling authority in all matters connected with the land-revenue is vested in the Commissioner, subject to the Governor in Council.

Extent of territories under Commissioners.

There shall be one or more [3] Commissioners as the Governor in Council, subject to the orders of the Government of India, may direct ; and the Governor in Council shall prescribe what territories are to be under the control of each, whether generally or for any specific purpose, and may from time to time alter the limits of such territories, all orders made on this behalf being duly [4] notified.

Division.

The territories under each Commissioner shall form, and be called, a division.

[5] * * * * * * * *

Appointments and duties of Commissioner.

5. The Commissioners shall be appointed by the Governor in Council, and shall exercise the powers and discharge the duties conferred and imposed on a Commissioner under this Act, or under any other law for the time being in force, and so far as is consistent therewith all such other powers or duties of appeal, superintendence and control within their respective divisions, and over the officers subordinate to them as may from time to time be prescribed by Government.

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[1] As to the local modification of the word "occupancy," *see* para. 4 of the third footnote on p. 631, *supra*.

[2] This schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[3] For notification sanctioning the appointment of these Commissioners and fixing the limits of their charges, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, pp. 537 and 538.

[4] For notification issued in conjunction with ss. 4 and 7, *see* Bombay Local Rules and Orders, 1898, Vol. II, p. lxxxviii.

[5] The words "The present divisions shall continue as they are for the purposes of this Act, until altered by the Governor in Council", were repealed by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

Assistants to Commissioners.

6. Each Commissioner shall have such number of assistants as the Governor in Council may from time to time sanction, their appointment being made by the Governor in Council. Assistants so appointed shall perform such duties as the Commissioners, to whom they are respectively subordinate, may from time to time direct.

Division to be divided into districts.

7. Each division, under the control of the Commissioner, shall be divided into such number of districts with such limits as may from time to time be [1] prescribed by a duly published order of the Governor in Council.

District: táluqá.

And each such district shall consist of such number of táluqás, and each táluqá shall consist of such number of mahál and villages, as may from time to time be [1] prescribed in a duly published order of the Governor in Council.

[2] * * * * * * * *

Collector of District.

8. The Governor in Council shall appoint in each district an officer who shall be the Collector [3] * * * * and who shall be subordinate to the Commissioner of his division, and may exercise, throughout his district, all the powers and discharge all the duties, conferred and imposed on a Collector or an Assistant or Deputy Collector by this Act, or any other law for the time being in force, and in all matters not specially provided for by law shall act according to the instructions of Government.

Assistant and Deputy Collectors.

9. The Governor in Council may [4] appoint to each district so many Assistant Collectors and so many Deputy Collectors as he may deem expedient; the Assistants shall be called "First," "Second," "Supernumerary," etc., as may be expressed in the order of their appointment.

To be subordinate to Collector.

All such Assistant and Deputy Collectors and all other officers employed in the land-revenue-administration of the district shall be subordinate to the Collector.

Their duties and powers.

10. Subject to the general orders of Government, a Collector may place any of his assistants or deputies in charge of the revenue-administration of one or more of the táluqás in his district, or may himself retain charge thereof.

Any Assistant or Deputy Collector thus placed in charge shall, subject to the provisions of Chapter XIII [5] * * *, perform all the duties and exercise all the powers conferred upon a Collector [6] * * * by this

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[1] For notifications *see* Bombay Local Rules and Orders, 1898, Vol. II, pp. lxxxiv to xciv. For those in conjunction with s. 4, see under that section and for those in conjunction with s. 14, under section 14.

[2] The words "The present zillas or collectorates shall form districts, and the present táluqás shall remain as they are, for the purposes of this Act, until altered by the Governor in Council" were repealed by the Repealing and Amending Act, 1895 (16 of 1895).

[3] The words "of the District" were repealed by the Repealing and Amending Act, 1895 (16 of 1895).

[4] For notification appointing the Superintendent, Mahableshwar, to be a Deputy Collector, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, p. 537.

[5] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[6] The words "of a district" were repealed by the Repealing and Amending Act, 1895 (16 of 1895).

Act or any other law at the time being in force, so far as regards the táluqá or táluqás in his charge:

Provided that the Collector may, whenever he may deem fit, direct any such assistant or deputy not to perform certain duties or exercise certain powers, and may reserve the same to himself or assign them to any other assistant or deputy subordinate to him.

To such Assistant or Deputy Collector as it may not be possible or expedient to place in charge of táluqás the Collector shall, under the [1] general orders of Government, assign such particular duties and powers as he may from time to time see fit.

Collector of district in case of temporary vacancy.

11. If the Collector is disabled from performing his duties, or for any reason vacates his offices or leaves his district, or dies, his assistant of highest rank present in the district shall, unless other provision has been made by Government, succeed temporarily to his office, and shall be held to be the Collector [2]* * * under this Act until the Collector resumes charge of his district, or until the Governor in Council appoints a successor to the former Collector and such successor takes charge of his appointment.

An officer whose principal office is different from that of an Assistant Collector, and who is an Assistant Collector for special purposes only, shall not be deemed to be an Assistant for the purposes of this section.

Mámlatdár: his appointment;

12. The chief officer entrusted with the local revenue-administration of a táluqá shall be called a Mámlatdár. He shall be appointed by the Commissioner of the division in which his táluqá is situated.

his duties and powers.

His duties and powers shall be such as may be expressly imposed or conferred upon him by this Act, or by any other law for the time being in force, or as may be imposed upon, or delegated to, him by the Collector under the general or special orders of Government. [3] * * * * * * * * *

Mahálkari: his duties and powers.

13. Whenever it may appear necessary to the Governor in Council, the Collector may appoint a Mahálkari to be in charge of a defined portion of a táluqá; and, subject to the orders of Government and of the Commissioner, the Collector may assign to him within his local limits such of the duties

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[1] For notification declaring that certain Assistant and Deputy Collectors who had not passed the higher standard should not be appointed Deputy Collectors, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. 537.

[2] The words "of the district" were repealed by the Repealing and Amending Act, 1895 (16 of 1895).

[3] The words "He shall continue to perform the duties and exercise the powers at present performed and exercised by him after the passing of this Act, until such time as he is otherwise directed by competent authority" were repealed by the Repealing and Amending Act, 1895 (16 of 1895).

and powers of a Mámlatdár as he may from time to time see fit, and may also from time to time direct whether the Mahalkári's immediate superior shall for the purposes of section 203 * *[1] be deemed to be the Mámlatdár or the Assistant or Deputy Collector, or the Collector in charge of the táluqá.

Mámlatdár or Mahálkari may depute subordinates to perform certain of his duties.

14. It shall be competent to a Mámlatdár or Mahálkari, subject to such general orders as may from time to time be passed by the Commissioner or by the Collector, to employ any of his subordinates to perform any portion of his ministerial duties; provided that all acts and orders of his subordinates when so employed shall be liable to revision and confirmation by such Mámlatdár or Mahálkari.

Mahál.

The portion of a táluqá in the charge of a Mahálkari shall be called a Mahál [2]* * * * * * * * * * * * *.

Mámlatdár or Mahálkari in case of temporary vacancy.

15. If a Mámlatdár or Mahálkari is disabled from performing his duties, or for any reason vacates his office, or leaves his táluqá or mahál, or dies, such subordinate as may be designated by orders to be issued from time to time on this behalf by the Collector shall succeed temporarily to the said Mámlatdár's or Mahálkari's office, and shall be held to be the Mámlatdár or Mahálkari under this Act until the Mámlatdár or Mahálkari resumes charge of his táluqá or mahál, or until such time as a successor is duly appointed and takes charge of his appointment.

Stipendiary patel and village-accountant where to be appointed.

16. In villages where no hereditary patel or village-accountant exists, it shall be lawful for the Collector, under the general orders of Government and of the Commissioner, to appoint a stipendiary patel or a village-accountant who shall perform respectively all the duties of hereditary patels or village-accountants as hereinafter prescribed in this Act or in any other law for the time being in force, and shall hold their situations under the rules in force with regard to subordinate Revenue-officers.

Saving of rights of holders of alienated villages.

Nothing in this section shall be held to affect any subsisting rights of holders of alienated villages or others in respect of the appointment of patels and village-accountants in any alienated or other villages.

Village-accountant to keep records prescribed by Collector;

17. Subject to the general orders of Government and of the Commissioner, the Collector shall prescribe from time to time what registers, accounts and other records shall be kept by the village-accountant [3]* * * * * *

[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] The words "The present mahals shall remain as they are, for the purposes of this Act, until altered by the Governor in Council" were repealed by the Repealing and Amending Act, 1895 (16 of 1895).

[3] The words "and pending the first issue of orders under this section, the village-accountant shall continue to keep all such registers, accounts and other records as he may hitherto have been required to keep" were repealed by the Repealing and Amending Act, 1895 (16 of 1895).

and to prepare public writings.

It shall also be the duty of the village-accountant to prepare, whenever called upon by the patel of his village, or by any superior Revenue or Police officer of the táluqá or district to do so, all writings connected with the concerns of the village which are required either for the use of Government or the public, such as notices, reports of inquests, and depositions and examinations in criminal matters.

Survey-officers:

18. For the purposes of Chapters VIII, IX and X * * * [1] the Governor in Council may [2] appoint such officers as may from time to time appear necessary. Such officers shall be designated "Commissioner of Survey", "Superintendent of Survey", "Survey-settlement-officers" and "Assistant" or otherwise as may seem requisite, and shall be subordinated the one to the other in such order as the Governor in Council may direct.

their duties and powers.

Subject to the orders of the Governor in Council, the officers so appointed are vested with the cognizance of all matters connected with survey and settlement, and shall exercise all such powers and perform all such duties as may be prescribed by this or any other law for the time being in force.

Combination of offices.

19. It shall be lawful for the Governor in Council to appoint one and the same person, being otherwise competent according to law, to any two or more of the offices provided for in this Chapter, or to [3] confer upon an officer of one denomination all or any of the powers or duties of any other officer or officers within certain local limits or otherwise as may seem expedient.

Appointments to be notified.

20. The appointment of all officers mentioned in sections 4 to 13 and 18 and 19 shall be duly notified.

Acting appointments.

Any officer appointed to act temporarily for any such officer shall exercise the same powers and perform the same duties as might be performed or exercised by the officer for whom he is so appointed to act.

Establishments.

21. Subject to rules or orders made under section 214, the appointment of all members of the establishments of the undermentioned officers shall, unless otherwise directed by Government, be made by those officers respectively, namely :—

the Commissioners,
„ Collectors,
„ Commissioner of Survey,
„ Superintendent of Survey,
„ Survey-settlement-officer.

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[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] For notification appointing a Commissioner of Survey, *see* Bombay Local Rules and Orders, 1898, Vol. II, p. 537.

[3] For notification authorising the Mámlatdár of Poona City to exercise powers under ss. 86 and 87, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, p. 537.

(*Chap. II.—Constitution and Powers of Revenue-officers. Sec. 22. Chap. III.—Of the Security to be furnished by certain Revenue-officers and the Liability of Principals and Sureties. Secs. 23-24.*)

The appointment of all members of the establishments of all other officers mentioned in the foregoing sections of this Chapter shall be made in their respective departments by the Collector and the Superintendent of Survey: provided that it shall be lawful for them to delegate such portion of this power as they may deem fit to any subordinate officer, but subject to the retention of a right of revision at any time of the appointments that may be made by such subordinate officers.

Seals.

22. The Governor in Council shall from time to time by notification prescribe what Revenue-officers shall use a seal, and what size and description of [1]seal shall be used by each of such officers.

[2]* * * * * * * * * * * * * * * * * *

CHAPTER III.

OF THE SECURITY TO BE FURNISHED BY CERTAIN REVENUE-OFFICERS AND THE LIABILITY OF PRINCIPALS AND SURETIES.

Government to direct what officers shall furnish security, and to what amount.

23. It shall be lawful for Government to direct that such Revenue-officers as it deems fit shall, previously to entering upon their office, furnish security to such amount as Government may in each case deem expedient, either by deposit of Government-paper duly endorsed, accompanied by a power to sell, or in the form contained in Schedule B. * * *[3]

The amount for which such security shall be furnished may be varied, from time to time, by order of Government, which shall also determine the number of sureties to be required when security is taken in the form of Schedule B.

Fresh or additional security.

24. The Collector or the Superintendent of Survey may, at any time after security has been given by a Revenue-officer subordinate to him, if it appear to him that the security taken is unsatisfactory, or if the officer is transferred to an office for which larger security is required, or for other sufficient reason, demand fresh or additional security, and in case of the officer failing to give such security within one month after its being required of him may suspend or dismiss him:

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[1] As to seals to be used by Revenue-officers, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, pp. 537 and 538.

[2] The words "Pending the issue of the first orders under this section, the seals hitherto used shall continue to be used by such officers as have used them" were repealed by the Repealing and Amending Act, 1895 (16 of 1895).

[3] The words "to this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

Provided always that no greater security shall be demanded than is required by the orders of Government under the last preceding section.

Demands for money, papers, etc., to be made known in writing to person concerned;

25. The Collector or the Superintendent of Survey or any other officer deputed by the Collector or Superintendent of Survey for this purpose shall in all cases in which he may have a claim on any Revenue-officer or on any person formerly employed as such in his department or district for public money or papers or other Government-property, by writing under his official seal, if he use one, and signature, require the money, or the particular papers or property detained, to be delivered either immediately to the person bearing the said writing, or to such person on such date and at such place as the writing may specify.

who may be arrested and confined in jail if he fail to produce them.

If the officer or other person aforesaid shall not discharge the money, or deliver up the papers or property, as directed, he may cause him to be apprehended, and may send him with a warrant, in the form of Schedule C, to be confined in the civil jail till he discharges the sums or delivers up the papers or property demanded from him :

Limit to confinement.

Provided that no person shall be detained in confinement by virtue of any such warrant for a longer period than one calendar month.

Public moneys may also be recovered as arrears of revenue;

26. The Collector of his own motion, if the officer or other person is or was serving in his department and district, and upon the application of the Superintendent of Survey, if such officer or person is or was serving in the survey-department in his district, may also take proceedings to recover any public moneys due by him in the same manner and subject to the same rules as are laid down in this Act for the recovery of arrears of land-revenue from defaulters, and, for the purpose of recovering public papers or other property appertaining to Government, may issue a search-warrant and exercise all such powers with respect thereto as may be lawfully exercised by a Magistrate under the provisions of Chapter VII of the [1]Code of Criminal Procedure (Act X of 1872).

and search-warrant issued for recovery of papers or property.

Persons in possession of public moneys, etc., bound to give them up.

It shall be the duty of all persons in possession of such public moneys, papers or other property appertaining to Government to make over the same forthwith to the Collector, and every person knowing where any such property is concealed shall be bound to give information of the same to the Collector.

Surety liable in same manner as principal.

27. The surety or sureties of such officer or other person as is aforesaid, who may enter into a bond, in the form of Schedule B, shall be liable to be proceeded against jointly and severally in the same manner as his or their

[1] *See* now the Criminal Procedure Code, 1898 (Act 5 of 1898), as modified up to 1st April, 1903.

principal is liable to be proceeded against, in case of default, and notwithstanding such principal may be so proceeded against :

Extent of liability.

Provided always that in any case of failure to discharge or make good any sum of money due to Government or to produce any property of Government of ascertained value, no greater sum than is sufficient to cover any loss or damage which the Government may actually sustain by the default of the principal shall be recovered from the surety or sureties as the amount which may be due from such surety or sureties under the terms of the security-bond executed by him or them.

Sureties not liable to imprisonment, if penalty paid.

And provided also that the said surety or sureties shall in no case be liable to imprisonment in default of producing public papers or property, if he or they pay into the Government treasury the whole or such part of the penalty named in the bond as may be demanded.

Officer or surety in jail may, by furnishing security, obtain release.

28. If an officer or other person as aforesaid, or his surety or sureties, against whom a demand is made, shall give sufficient security in the form of Schedule D, the Collector shall cause such officer or surety if in custody to be liberated, and countermand the sale of any property that may have been attached, and restore it to the owner.

Liability of surety not affected by death of principal or his taking different appointment.

29. The liability of the surety or sureties shall not be affected by the death of a principal, or by his appointment to a situation different from that which he held when the bond was executed, but shall continue so long as the principal occupies any situation in which security is required under section 23 and until his bond is cancelled.

Liability of heirs of deceased officer.

The heirs of a deceased officer shall be liable by suit in the Civil Court for any claims which Government may have against the deceased, in the same way as they would be for similar claims made by an individual.

How surety may withdraw from further liability.

30. Any surety, whether under a separate or joint bond, may withdraw from his suretyship at any time on his stating in writing, to the officer to whom the bond has been given, that he desires so to withdraw, and his responsibility under the bond shall cease after sixty days from the date on which he gives such writing as to all demands upon his principal concerning moneys, papers or other property for which his principal may become chargeable after the expiration of such period of sixty days, but shall not cease as to any demands for which his principal may have become liable before the expiration of such period, even though the facts establishing such liability may not be discovered till afterwards.

CHAPTER IV.

OF CERTAIN ACTS PROHIBITED TO REVENUE-OFFICERS, AND OF THEIR PUNISHMENT FOR MISCONDUCT.

Revenue-officers, without permission,

31. No Revenue-officer shall, except with the express permission of Government, or of the Collector, or Superintendent of Survey to whom he is subordinate,—

not to trade;

(1) engage in trade, or be in any way concerned, directly or indirectly, either as principal or agent, in any commercial transaction whatever;

not to purchase at public sale;

(2) purchase or bid, either in person or by agent, or in his own name or in the name of another, or jointly or in shares with others, for any property which may, under the provisions of this Act or of any other law for the time being in force, be sold by order of any revenue or judicial authority in the district in which such officer is at the time employed;

not to be concerned in revenue;

(3) hold directly or indirectly any farm or be in any way concerned on his private account in the collection or payment of revenue of any kind in the district in which he is at the time employed;

and no Revenue-officer shall—

not to make private use of public money or property;

(4) derive either for himself or for any other individual any profit or advantage beyond his lawful salary or emolument from any public money or property with the collection or charge of which he is entrusted or connected; or

not to make or receive undue exactions or presents.

(5) demand or receive, under the colour or by the exercise of his authority as such Revenue-officer, or by way of gratification or otherwise, or knowingly permit any other person to demand or receive on his behalf, any sum or any consideration whatever over and above what he is legally entitled to demand or receive under the provisions of this Act or of any other law for the time being in force.

Power of fining, reducing, suspending and dismissing in whom to vest.

32. Subject to rules or orders made under section 214, all Revenue-officers may be fined, reduced, suspended or dismissed for any such offence as is described in the last preceding section, or for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty or other misconduct, by the authority by whom such officer is appointed; or by any authority superior to such authority; and this power may be delegated by such first-mentioned

authority, in whole or in part, to any subordinate officer on the same condition that the power of appointment may be delegated under section 21:

Officer to be fined, etc., only by order of Government.

Provided that, excepting Mámlatdárs, no Revenue-officer, whose monthly salary exceeds rupees two hundred and fifty, shall be fined, suspended, reduced or dismissed except by order of the Governor in Council.

Orders to be made in writing.

33. When any Revenue-officer passes an order for fining, reducing, suspending or dismissing any subordinate officer, he shall record such order or cause the same to be recorded, together with the reasons therefor, in writing under his signature in the language of the district or in English.

Fine not to exceed two months' pay;

34. No fine inflicted under the foregoing provisions shall in any case exceed the amount of two months' pay of the office held by the offender at the time of the commission of the offence.

how recovered.

All fines inflicted under this Chapter may be recovered from the officer's pay or, if necessary, may be realized in the same way as arrears of land-revenue are recoverable under this Act.

Appeals.

35. If the Collector or Superintendent of Survey, whether of his own motion or on appeal from a subordinate officer's order, pass an order for fining, reducing, suspending or dismissing any Revenue-officer subordinate to him whose monthly salary does not exceed thirty-five rupees, or

if any authority superior to the Collector or Superintendent of Survey pass any such order against a Revenue-officer whose monthly salary does not exceed ninety-nine rupees, no appeal shall lie against such order, except and provided always that at least one appeal shall lie against every order made, of his own motion, by any authority other than Government, for dismissing an officer whose monthly salary exceeds thirty-five rupees.

And no appeal shall lie against any order for inflicting a fine not exceeding one rupee.

Liability to criminal prosecution not affected.

36. Nothing in this Chapter shall affect any officer's liability to a criminal prosecution for any offence with which he may be charged.

Officer may be suspended during trial, and subsequently suspended, reduced or dismissed.

Any officer subjected to such prosecution may be suspended pending the trial, and at its close may, upon a consideration of the circumstances brought to light during its course, be suspended, reduced or dismissed by any competent authority, whether he have been found guilty or not.

CHAPTER V.

OF LAND AND LAND-REVENUE.

Land.

Public road, etc., and lands not property of others belong to Government.

37. All public roads, lanes and paths, the bridges, ditches, dikes and fences on, or beside, the same, the bed of the sea and of harbours and creeks below high-water mark and of rivers, streams, nalas, lakes and tanks and all canals and water-courses and all standing and flowing water, and all lands, wherever situated, which are not the property of individuals or of aggregates of persons legally capable of holding property, and except in so far as any rights of such persons may be established in or over the same, and except as may be otherwise provided in any law for the time being in force, are and are hereby declared to be, with all rights in or over the same, or appertaining thereto, the property of Government, and it shall be lawful for the Collector, subject to the orders of the Commissioner, to dispose of them in such manner as he may deem fit, or as may be authorized by general rules sanctioned by Government, subject always to the rights of way, and all other rights of the public or of individuals legally subsisting.

Explanation.—In this section "high-water mark" means the highest point reached by ordinary spring-tides at any season of the year.

Lands may be assigned for special public purposes, and

[1] **38.** Subject to the general orders of Government, it shall be lawful for Survey-officers whilst survey-operations are proceeding under Chapter VIII * * *[2], and at any other time for the [3][Collector], to set apart lands the property of Government and not in the lawful occupation of any person or aggregate of persons in unalienated villages or unalienated portions of villages, for free pasturage for the village-cattle, for forest-reserves, or for any other public or municipal purpose;

when assigned, not to be otherwise appropriated without sanction.

and lands assigned specially for any such purpose shall not be otherwise appropriated or assigned without the sanction of the [3][Collector]; and in the disposal of land under section 37 due regard shall be had to all such special assignments.

Regulation of use of pasturage.

[1] **39.** The right of grazing on free pasturage-lands shall extend only to the cattle of the village or villages to which such lands belong or have been assigned, and shall be regulated by rules to be from time to time, either

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[1] As to the local repeal of ss. 38 and 39, *see* para. 4 of the third foot-note on p. 631, *supra*.

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[3] Substituted for the word "Commissioner" by s. 2 (*1*) of the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), Vol. IV of this Code.

generally or in any particular instance prescribed by the Collector with the sanction of the Commissioner.

The Collector's decision in any case of dispute as to the said right of grazing shall be conclusive.

Trees [etc.][1]

Concession of Government rights to trees in case of settlements completed prior to Act.

[2] **40.** In villages, or portions of villages, of which the original survey-settlement has been completed before the passing of this Act, the right of Government to all trees in unalienated land, except trees reserved by Government, or by any Survey-officer, whether by express order made at, or about, the time of such settlement, or under any rule or general order in force at the time of such settlement, or by notification made and published at, or any time after, such settlement, shall be deemed to have been conceded to the occupant.

But in the case of settlements completed before the passing of [3]Bombay Act I of 1865 this provision shall not apply to teak, blackwood or sandal-wood-trees. The right of Government to such trees shall not be deemed to have been conceded, except by clear and express words to that effect.

Concession in case of settlements completed after passing of Act.

In the case of villages or portions of villages of which the original survey-settlement shall be completed after the passing of this Act, the right of Government to all trees in unalienated land shall be deemed to be conceded to the occupant of such land, except in so far as any such rights may be reserved by Government, or by any Survey-officer on behalf of Government, either expressly at or about the time of such settlement, or generally by notification made and published at any time previous to the completion of the survey-settlement of the district in which such village or portion of a village is situate.

Concession in case of land taken up after completion of settlement.

When permission to occupy land has been, or shall hereafter be, granted after the completion of the survey-settlement of the village or portion of a village in which such land is situate, the said permission shall be deemed to include the concession of the right of Government to all trees growing on that land, which may not have been, or which shall not hereafter be, expressly reserved at the time of granting such permission, or which may not have been reserved, under any of the foregoing provisions of this section, at or

[1] Added by s. 2 (*1*) of the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), Vol. IV of this Code.

[2] As to the local repeal of s. 40, *see* para. 4 of the third foot-note on p. 631, *supra*.

[3] The Bombay Survey and Settlement Act, 1865 (Bom. Act 1 of 1865), *supra*, p. 451 (except ss. 37 and 38), is repealed by s. 2 of this Act.

about the time of the original survey-settlement of the said village or portion of a village.

Government trees and forests.

41. The right to all trees specially reserved under the provision of the last preceding section, and to all trees, brushwood, jungle or other natural product growing on land set apart for forest-reserves under section 32 of [1]Bombay Act I of 1865 or section 38 of this Act, and to all trees, brushwood, jungle or other natural product, wherever growing, except in so far as the same may be the property of individuals or of aggregates of individuals capable of holding property, vests in Government; and such trees, brushwood, jungle or other natural product shall be preserved or disposed of in such manner as Government may from time to time direct.

Road-side trees.

42. All road-side trees which have been planted and reared by, or under the orders of, or at the expense of, Government, or at the expense of local funds, vest in Government.

But in the event of such trees dying, or being blown down, or being cut down by order of the Collector, the timber shall become the property of the holder of the land in which they were growing; and the usufruct, including the loppings of such trees, shall also vest in the said holder:

Provided that the trees shall not be lopped except under the orders of the Collector.

If the holder of any land in which such trees are growing shall so desire and shall make an application to the Collector for the purpose at any time within two years from the date on which this Act shall come into operation, the Collector shall deduct the strip of land covered by the said trees from his holding, and remit thenceforward the proportionate amount of land-revenue due upon the strip so deducted.

Any strip of land so deducted shall, with the trees upon it, vest thereafter in Government.

Recovery of value of trees, etc., unauthorizedly appropriated.

43. Any person who shall unauthorizedly fell and appropriate any tree or any portion thereof or remove [2][from his holding] any other natural product [2][whether of the like description or not] which is the property of Government shall be liable to Government for the value thereof, which shall be recoverable from him as an arrear of land-revenue, in addition to any penalty to which he may be liable under the provisions of this Act for the occupation of the land or otherwise, and notwithstanding any criminal proceedings which may be instituted against him in respect of his said appropriation of Government property.

[1] The Bombay Survey and Settlement Act, 1865 (Bom. Act 1 of 1865), *supra*, p. 451 (except ss. 37 and 38), is repealed by s. 2 of this Act.

[2] The words within square brackets in s. 43 were inserted by the Bombay Repealing and Amending Act, 1905 (Bom. Act 1 of 1905), Vol. IV of this Code.

The decision of the Collector as to the value of any such tree, or portion thereof, or other natural product, shall be conclusive.

Regulation of supply of firewood and timber for domestic or other purposes.

[1]**44.** In villages or lands in which the rights of Government to the trees have been reserved under section 40 subject to certain privileges of the villagers or of certain classes or persons to cut firewood or timber for domestic or other purposes, and in lands which have been set apart under section 38 for forest-reserves subject to such privileges, and in all other cases in which such privileges exist in respect of any alienated land, the exercise of the said privileges shall be regulated by [2] rules to be from time to time, either generally or in any particular instance, prescribed by the Collector or by such other officer as Government may direct.

In any case of dispute as to the mode or time of exercising any such privileges the decision of the Collector or of such other officer shall be conclusive.

Land-revenue.

All land liable to pay revenue unless specially exempted.

45. All land, whether applied to agricultural or other purposes, and wherever situate, is liable to the payment of land-revenue to Government according to the rules hereinafter enacted, except such as may be wholly exempted under the provisions of any special contract with Government or any law for the time being in force.

Saving of right to levy revenue.

But nothing in this Act shall be deemed to affect the power of the legislature to direct the levy of revenue on all lands under whatever title they may be held whenever and so long as the exigencies of the State may render such levy necessary.

Liability of alluvial lands to land revenue.

[3]**46.** All alluvial lands, newly-formed islands or abandoned river-beds which vest, under any law for the time being in force in any holder of alienated land, shall be subject in respect of liability to the payment of land-revenue to the same privileges, condtiions or restrictions as are applicable to the original holding in virtue of which such lands, islands or river-beds so vest in the said holder, but no revenue shall be leviable in respect of any such lands, islands or river beds until or unless the area of the same exceeds half an acre and also exceeds one-tenth of the area of the said original holding.

Right to remission in cases of diluvior.

47. Every holder of land paying revenue in respect thereof shall be entitled, subject to such rules as may be from time to time made in this behalf by the Governor in Council, to a decrease of assessment if any portion thereof, not

[1] As to the local repeal of s. 44, *see* para. 4 of the third foot-note on p. 631, *supra*.
[2] For rules as to cutting firewood, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898 pp. 200, 209, 210 and 211.
[3] As to the local modification of s. 46, *see* para. 4 of the third foot-note on p. 631, *supra*.

being less than half an acre in extent, nor less than one-tenth of the holding, is lost by diluvion.

"Holding" defined.

The word[1] "holding" in this section shall be deemed to mean a survey-number of any division of land on which a distinct or aggregate assessment has been fixed.

Lands chargeable with land-revenue.

48. The land-revenue leviable under the provisions of this Act shall be chargeable—

(*a*) upon land appropriated for purpose of agriculture;

(*b*) upon land [2][appropriated for any purpose] from which any other profit or advantage than that ordinarily acquired by agriculture is derived;

(*c*) upon land appropriated for building-sites.

Assessment variable if purpose for which land is held is changed.

[3][And the assessment fixed under the provisions of this Act upon any land appropriated for any one of the above purposes shall, when such land is appropriated for any other of the said purposes, notwithstanding that the term, if any, for which such assessment was fixed may not have expired, be liable to be altered and fixed at a different rate by such authority and subject to such rules as to the fixing and periodical revision thereof as the Governor in Council prescribes in this behalf.]

Land held rent-free for one purpose assessable if used for another.

And any land allowed by Government to be held free of assessment on condition of its being appropriated to one purpose shall become liable to assessment if at any time it is devoted to any other purpose.

Appropriation of land to certain purposes may be prohibited.

It shall also be lawful for the Collector or for a Survey-officer, subject to rules or orders made in this behalf under section 214, to prohibit the appropriation of any unalienated land liable to the payment of land-revenue for certain purposes, and to summarily evict any holder who may appropriate, or attempt to appropriate, the same to such prohibited purposes.

Land indirectly taxed to State, or

49. When it has been customary to levy any special or extra cess, fine or tax, however designated, from any holder of land, which, though nominally

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[1] As to definition for the purposes of the Act generally, see s. 3(*10*), p. 633, *supra*.

[2] These words were inserted by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 3 (*1*), Vol. IV of this Code.

[3] This para. was substituted by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 3 (*2*), Vol. IV of this Code.

The original paragraph was as follows:—

"And the assessment fixed under the provisions of this Act upon any land appropriated for any one of the above purposes shall be liable to be altered and fixed at a different rate when such land is appropriated for any other purpose, notwithstanding that the term, if any, for which such assessment was fixed may not have expired. And any land allowed by Government to be held free of assessment on condition of its being appropriated to one purpose shall become liable to assessment if at any time it is devoted to any other purpose."

wholly or partially exempt from the payment of land-revenue, has by the exaction of such cess, fine or tax been indirectly taxed to the State,

or when any land ordinarily, or under certain circumstances, wholly or partially exempt from assessment, is subject occasionally, or under particular circumstances, to the payment of assessment, or of any cess or tax however designated, land liable to occasional assessment;

the said assessment, cess, fine or tax may be commuted into an annual assessment on the land to be paid under all circumstances, but such commuted assessment shall not exceed such amount as the Commissioner shall deem to be fair equivalent of the assessment, cess, fine or tax for which it is substituted, and shall not be in excess of the assessment to which the land would be ordinarily subject if no right to exemption existed in respect thereof. liable to commuted assessment.

50. Whenever any such cess, fine or tax hitherto payable by an inferior holder shall be made leviable from the superior holder, it shall be lawful for such superior holder to recover from such inferior holder the amount of the commuted assessment fixed in lieu of such cess, fine or tax. Superior holder may recover commuted assessment from inferior holder.

51. When it has been customary to levy a larger revenue, under the name of "*veta*" or any other designation, upon any portion of land than such portion would ordinarily be liable to in consideration of other land being held with it which is wholly or partially exempt from payment of revenue, the excess of revenue payable on the said portion of land may be charged upon the land hitherto held wholly or partially exempt. Excess of assessment may be laid on land inadequately assessed held with it.

[1]**52.** On all lands which are not wholly exempt from the payment of land-revenue, [2][and] on which the assessment has not been fixed under the provisions of section 102 or 106, the assessment of the amount to be paid as land-revenue shall, subject to rules or orders made in this behalf under section 214, be fixed at the discretion of the Collector, for such period as he may, by general or special orders of Government in this behalf, be authorized to Assessment by whom to be fixed.

[1] This section was substituted by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), Vol. IV of this Code.
The original section was as follows:—

"On all lands not wholly exempt from payment of land-revenue, and not within the local operation of an order made under section 95, the assessment of the amount to be paid as land-revenue shall be fixed at the discretion of the Collector, subject to rules or orders made in this behalf under section 214, and the amounts due according to such assessment shall be levied on all such lands:

Provided that in the case of lands partially exempt from land-revenue, or the liability of which to payment of land-revenue is subject to special conditions or restrictions, respect shall be had in the fixing of the assessment and the levy of the revenue to all rights legally subsisting, according to the nature of the said rights."

[2] Substituted for the word "or" by the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), Vol. IV of this Code.

prescribe, and the amounts due according to such assessment shall be levied on all such lands :

Proviso.

Provided that in the case of lands partially exempt from land-revenue, or the liability of which to payment of land-revenue is subject to special conditions or restrictions, respect shall be had in the fixing of the assessment and the levy of the revenue to all rights legally subsisting, according to the nature of the said rights.[1]

Register of alienated lands.

53. A register shall be kept by the Collector in such form as may from time to time be prescribed by the Governor in Council of all lands the alienation of which has been established or recognized under the provisions of any law for the time being in force ; and, when it shall be shown to the satisfaction of the Collector that any sanad granted in relation to any such alienated land has been permanently lost or destroyed, he may, subject to the rules and the payment of the fees prescribed by the Governor in Council under section 213, grant to any person whom he may deem entitled to the same a certified extract from the said register, which shall be endorsed by the Collector, to the effect that it has been issued in lieu of the sanad said to have been lost or destroyed, and shall be deemed to be as valid a proof of title as the said sanad.

Settlement of assessment with whom to be made ;

[2]**54.** The settlement of the assessment of each portion of land, or survey-number, to the land-revenue, shall be made with the person who, under section 136, is primarily responsible to Government for the same.

when to be made with under-holder.

If the said person be absent, and have left no known authorized agent in the district, so that the settlement of the assessment cannot be concluded with him, such settlement may be made with the person holding under him, or in occupation of the land.

Rates for use of water.

55. The Governor in Council may authorize the Collector or the officer in charge of a survey, or such other officer as he deems fit, to fix such [3] rates as he may from time to time deem fit to sanction for the use, by landholders and other persons, of water the right to which vests in Government, [4][and in respect of which no rate is leviable under the Bombay Irrigation Act, 1879]. Bom. VII of 1879.

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[1] The validity of past assessments purporting to have been fixed under s. 52 is saved by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 5, Vol. IV of this Code.

[2] As to the local modification of s. 54, *see* para. 4 of the third foot-note on p. 631, *supra*.

[3] For notifications issued under section 55 for Sindh and the rest of the Presidency, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. 539.

[4] These words and figures were substituted for the words "or which has been made available in consequence of the construction, improvement, or repair of any irrigational or other work by or at the instance of Government" by the Bombay Irrigation Act, 1879 (Bom. Act 7 of 1879), s. 2, p. 754, *infra*.

Such rates shall be liable to revision at such periods as Government shall from time to time determine, and shall be recoverable as land-revenue.

Land-revenue a paramount charge on land.

56. Arrears of land-revenue due on account of land by any landholder shall be a paramount charge on the holding and every part thereof, failure in payment of which shall make the [1] occupancy or alienated holding, together with all rights of the [1] occupant or holder over all trees, crops, buildings and things attached to the land or permanently fastened to anything attached to the land, liable to forfeiture, whereupon the Collector may levy all sums in arrear by sale of the [1] occupancy or alienated holding, [2]* * * * * * * or may otherwise dispose of such [1] occupancy or alienated holding under rules or orders made in this behalf under section 214, [3][and such occupancy or alienated holding when disposed of, whether by sale as aforesaid, or by restoration to the defaulter, or by transfer to another person or otherwise howsoever, shall, unless the Collector otherwise directs, be deemed to be freed from all tenures, rights, incumbrances and equities theretofore created in favour of any person other than Government in respect of such occupancy or holding.]

Forfeited holding may be taken possession of and otherwise disposed of.

57. It shall be lawful for the Collector, in the event of the forfeiture of a holding through any default in payment or other failure occasioning such forfeiture under the last section or any law for the time being in force, to take immediate possession of the land embraced within such holding, and to dispose of the same by placing it in the possession of the purchaser or other person entitled to hold it according to the provisions of this Act or any other law for the time being in force.

Receipts to be granted by Revenue-officers; and by superior holders.

58. Every Revenue-officer receiving a payment of land-revenue shall give a written receipt for the same.

And every superior holder of an alienated village, or of an alienated share of a village, shall give a written receipt for every payment of rent or land-revenue made to him by an inferior holder,[4] [and every such receipt shall be countersigned by the village accountant, if there be any.]

Penalty for failure to grant receipts.

59. Any person convicted of a breach of the provisions of the last preceding section after summary inquiry before the Collector shall be liable to a

[1] As to the local modification of the words "occupancy" and "occupant," *see* para. 4 of the third foot-note on p. 631, *supra*.

[2] The words "freed from all tenures, incumbrances and rights created by the occupant or holder or any of his predecessors in title, or in any wise subsisting as against such occupant, or holder" were repealed by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 6, Vol. IV of this Code.

[3] These words were added to s. 56 by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 6, Vol IV of this Code.

[4] The last fifteen words of s. 58 have been declared not to be in force in the Panch Mahals—*see* the Panch Mahals Laws Act, 1885 (7 of 1885), s. 2, Vol. I of this Code, p. 214.

fine not exceeding three times the amount received for which a receipt was not duly granted, and one-half of the fine may, at the discretion of the Collector, be paid to the informer, if any. Such inquiry may at any time be instituted by the Collector of his own motion, without any complaint being preferred to him.

CHAPTER VI.

OF THE OCCUPATION OF UNALIENATED LAND AND THE RIGHTS OF OCCUPANTS.

Occupation.

Permission required previous to taking up unoccupied land.

[1]60. Any person desirous of taking up unoccupied land which has not been alienated must, previously to entering upon occupation, obtain the permission in writing of the Mámlatdár or Mahálkari.

Penalties for unauthorized occupation of land.

[1]61. Any person who shall unauthorizedly occupy any land set apart for any special purpose, or any unoccupied land which has not been alienated, shall,

if the land which he unauthorizedly occupies forms part of an assessed survey-number, pay the assessment of the entire number for the whole period of his occupation, and

if the land so occupied by him has not been assessed, such amount of assessment as would be leviable for the said period in the same village on the same extent of similar land appropriated to the same purpose;

and shall also be liable, at the discretion of the Collector, to a fine not exceeding five rupees, or a sum equal to ten times the amount of assessment payable by him for one year, if such sum be in excess of five rupees, if he have taken up the land for purposes of cultivation, and not exceeding such limit as may be fixed in rules or orders made in this behalf under section 214, if he have appropriated it to any non-agricultural purpose.

The Collector's decision as to the amount of assessment payable for the land unauthorizedly occupied shall be conclusive, and in determining its amount occupation for [2][a portion] of a year shall be counted as for a whole year.

The person unauthorizedly occupying any such land may be summarily evicted by the Collector, and any crop [3] * * * raised on the land shall be liable to forfeiture, and any building or other construction [3] * * * erected thereon

[1] As to the local repeal of ss. 60 and 61, *see* para. 4 of the third foot-note on p. 631, *supra*.

[2] These words were substituted for the words "an incomplete portion" by the Repealing and Amending Act, 1895 (16 of 1895), Vol I of this Code, p. 223.

[3] The words "he may have" were repealed by the Bombay Land-revenue Code Amendment Act 1901 (Bom. Act 6 of 1901), s. 7, Vol. IV of this Code.

shall also, if not removed by him after such written notice as the Collector may deem reasonable, be liable to forfeiture.

Forfeitures under this section shall be adjudged by the Collector, and any property so forfeited shall be disposed of as the Collector may direct.

Occupancy-right to be paid for and liable to conditions.

[1] **62.** It shall be competent to the Collector, subject to such orders as may from time to time be made by the Governor in Council, to require the payment of a certain price, for the occupancy, or to sell that right by auction, and to annex such conditions to the occupancy as may seem fit, before permission to occupy is granted under section 60.

Price to include price of trees.

The price of an occupancy shall include the price of the Government right to all trees not specially reserved under the provisions of section 40, and shall be recoverable as an arrear of land-revenue.

Occupancy of alluvial land which vests in Government.

[1] **63.** When it appears to the Collector that the occupancy of any alluvial land which vests, under any law for the time being in force, in Government, may, with due regard to the interests of the public revenue, be disposed of in perpetuity, he shall offer the prior right of occupancy thereof to the occupant, if any, of the bank or shore on which such alluvial land has formed.

The price of an occupancy so offered shall not exceed three times the annual assessment of the land of which the occupancy is offered.

If the said occupant shall refuse such occupancy, the Collector may dispose of the same under the last preceding section without any restrictions as to the price thereof.

Temporary right to alluvial lands of small extent.

[1] **64.** When alluvial land forms on any bank or shore, the occupant, if any, of such bank or shore shall be entitled to the temporary use and occupation thereof, unless or until the area of the same exceeds half an acre, and also exceeds one-tenth of the area of his holding. When the area of the alluvial land exceeds the said extent, it shall be at the disposal of the Collector, subject to the provisions of the last preceding section.

"Holding" defined.

The word [2] "holding" in this section shall be deemed to mean a survey-number, or any division of land on which a distinct or aggregate assessment has been fixed.

Occupants' Rights.

Uses to which occupant of land for

[1] **65.** An occupant of land appropriated for purposes of agriculture is entitled by himself, his servants, tenants, agents or other legal representa-

[1] As to the local repeal of ss. 62 to 65, *see* para. 4 of the third foot-note on p. 631, *supra*.
[2] As to definition for purposes of the Act generally, *see* s. 3 (*10*), p. 633, *supra*.

purposes of agriculture may put his land.

tives, to erect farm-buildings, construct wells or tanks, or make any other improvements thereon for the better cultivation of the land, or its more convenient occupation for the purposes aforesaid.

Procedure if occupant wishes to apply land to other purpose.

But, if any occupant wishes to appropriate his holding or any part thereof to any other purpose, the Collector's permission shall in the first place be applied for by the registered occupant.

The Collector on receipt of such application shall at once furnish the applicant with a written acknowledgment of its receipt, and after inquiry may either grant or refuse the same; but, if the applicant receive no answer within three months from the date of the said acknowledgment, the Collector's permission may be deemed to have been granted.

Unless the Collector shall in particular instances otherwise direct, no such application shall be recognized except it be made by the registered occupant.

Power to require fine in addition to special assessment.

When any such land is thus appropriated to any purpose unconnected with agriculture, it shall be lawful for the Collector, subject to the general orders of Government, to require the payment of a fine in addition to any new assessment which may be leviable under the provisions of section 48.

Penalty for so appropriating land without permission.

[1] **66.** If any such land be so appropriated without the permission of the Collector being first obtained, or before the expiry of three months from the date of the aforesaid acknowledgment, the occupant and any tenant, or other person holding under or through him, shall be liable to be summarily evicted by the Collector from the land so appropriated, and from the entire field or survey-number of which it may form a part, and the registered occupant shall also be liable to pay, in addition to the new assessment which may be leviable under the provisions of section 48 for the period during which the said land has been so appropriated, such fine as the Collector may, subject to the general orders of Government, direct.

Co-occupant or tenant responsible to registered occupant in damages.

Any co-occupant or any tenant of any occupant or any other person holding under or through an occupant, who shall, without the registered occupant's consent, appropriate any such land to any such purpose, and thereby render the said registered occupant liable to the penalties aforesaid, shall be responsible to the said registered occupant in damages.

Permission may be granted on terms.

[1] **67.** Nothing in the last two preceding sections shall prevent the granting of the permission aforesaid in special cases on such terms [2] [or

[1] As to the local repeal of ss. 66 and 67, *see* para. 4 of the third foot-note on p. 631, *supra*.

[2] These words were inserted in s. 67 by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 8 (*l*), Vol. IV of this Code.

conditions] as may be agreed on between Government and the registered occupant.

Occupant's rights conditional.

[1] **68.** An [2] occupant is entitled to the use and occupation of his land for the period, if any, to which his [2] occupancy is limited, or if the period is unlimited, or a survey-settlement has been extended to the land in perpetuity, conditionally on the payment of the amounts due on account of the land-revenue for the same, according to the provisions of this Act or of any rules made under this Act, or of any other law for the time being in force, and on the fulfilment of any other terms [3][or conditions] lawfully annexed to his occupancy ;

Proviso.

[4] [Provided that nothing in this or any other section shall make it, or shall be deemed ever to have made it, unlawful for the Collector at any time to grant permission to any person to occupy any unalienated unoccupied land, for such period and on such conditions as he may, subject to the orders of Government, prescribe, and in any such case the occupancy shall, whether a survey settlement has been extended to the land or not, be held only for the period and subject to the conditions so prescribed.]

Reservation of Government-right to mines.

69. The right of Government to mines and mineral-products in all unalienated land is and is hereby declared to be expressly reserved :

Proviso.

Provided that nothing in this section shall be deemed to affect any subsisting rights of any [2] occupant of such land in respect of such mines or mineral-products.

Decree or order of competent Court to be given effect to.

70. If by a decree or order of a competent Court it shall be adjudged that the [2] occupant is an inferior holder under another person, or that the [2]occupancy is vested in another person, or if, in the execution of such a decree or order, the interest of the [2] occupant in the land have been transferred by sale or otherwise to another person, such other person shall, on producing a certified copy of the decree or order, or the Court's certificate of the sale or other transfer, be deemed to be the [2] occupant and be dealt with accordingly, and, on written application being made to the Collector for the purpose, such change shall be made in the entry of the registered [2]occupant's name as the circumstances require :

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[1] As to the local repeal of s. 68, *see* para. 3 of the third foot-note on p. 631, *supra*.

[2] As to the local modification of the words "occupant", "occupancy" and "registered occupant", *see* para. 4 of the third foot-note on p. 631, *supra*.

[3] These words were inserted in s. 68 by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 8 (*1*), Vol. IV of this Code.

[4] The proviso to s. 68 was added by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 8 (*2*), Vol. IV of this Code.

Proviso.

[1] Provided that in any case where the occupancy or interest of the occupant in the land is not transferable without the previous sanction of the Collector, and such sanction has not been granted to the transfer which has been made or ordered by the Court or on which the Court's decree or order is founded,

(*a*) such occupancy or interest shall not be liable to the process of any Court, and such transfer shall be null and void, and

(*b*) the Court, on receipt of a certificate under the hand and seal of the Collector, to the effect that any such occupancy or interest is not transferable without his previous sanction and that such sanction has not been granted, shall remove any attachment or other process placed on, or set aside any sale of, or affecting, such occupancy or interest in the land.

Name of heir to be registered when registered occupant dies.

71. On the death of a [2] registered occupant the Collector shall cause the name of his eldest son, or other person appearing to be his heir, or the principal of his heirs, to be registered in his stead, and the said heir shall thereafter be deemed the [2] registered occupant and, subject to the provisions of the last preceding section, shall be dealt with accordingly.

When entry to be amended.

But, if at any time any person shall, by production of a certificate of heirship or of a decree or order of a competent Court, satisfy the Collector that he is entitled to be the [2] registered occupant in preference to the person whose name the Collector has ordered to be registered, the Collector shall cause the entry in the Government records to be amended accordingly.

Intestate occupancy or holding to be sold.

[3] **72.** If an [2] occupant who is either a Hindu, a Muhammadan or a Buddhist, dies intestate and without known heirs, the Collector shall dispose of his [2] occupancy by sale, subject to the provisions of this Act or of any other law at the time in force for the sale of forfeited occupancies in realization of the land-revenue, and the law at the time in force concerning property left by Hindus, Muhammadans or Buddhists, dying intestate and without known heirs, shall not be deemed to apply to the said [2] occupancy but only to the proceeds of such sale after deducting all arrears of land-revenue due by the deceased to Government and all expenses of the said sale.

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[1] The proviso to s. 70 was added by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s 9, Vol. IV of this Code.

[2] As to the local modification of the words "occupant", "occupancy" and registered occupant", *see* para. 4 of the third foot-note on p. 631, *supra*.

[3] As to the local repeal of s. 72, *see* para. 3 of the third foot-note on p. 631, *supra*.

(Chap. VI.—Of the Occupation of unalienated Land and the Rights of Occupants. Secs. 73-74.)

Right of occupancy to be transferable and heritable.

[1] [2] **73.** The right of [3] occupancy shall, subject to the provisions contained in section 56, and to any conditions lawfully annexed to the [3] occupancy, and save as otherwise prescribed by law, be deemed an heritable and transferable property.

Power to restrict right of transfer.

[4] **73A.** (*1*) Notwithstanding anything in the foregoing section, in any tract or village to which Government may, by Notification published before the introduction therein of an original survey-settlement under section 103, [5] declare the provisions of this section applicable, the [3] occupancy or interest of the [3] occupant in the land shall not after the date of such Notification be transferable without the previous sanction of the Collector.

(*2*) Government may, by Notification in the *Bombay Government Gazette* from time to time exempt any part of such tract or village or any person or class of persons from the operation of this section.

Relinquishment of Occupancy.[3]

Occupant may relinquish occupancy.

[1] **74.** An [3] occupant may, by giving written notice to the Mámlatdár or Mahálkari, relinquish his [3] occupancy either absolutely or in favour of a specified person : provided that such relinquishment apply to the entire [3] occupancy or to whole survey-numbers, or recognized shares of survey-numbers.

An absolute relinquishment shall be deemed to have effect from the close of the current year, and notice thereof must be given before the thirty-first March in such year, or before such other date as may be from time to time prescribed in this behalf for each district by the Governor in Council.

A relinquishment in favour of a specified person may be made at any time.

When there are more [3] occupants than one, the notice of relinquishment must be given by the [3] registered occupant; and the person, if any, in whose favour an [3] occupancy is relinquished, or if such [3] occupancy is relinquished

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[1] As to the local repeal of ss. 73 and 74, *see* para. 3 of third foot-note on p. 631, *supra*.

[2] This section was substituted by the Bombay Land-revenue Act Amendment Act, 1901 (Bom. Act 6 of 1901) s. 10, Vol. IV of this Code.

The original section was as follows :—

"The right of occupancy shall be deemed an heritable and transferable property subject to the provisions contained in section 56 or otherwise prescribed by law, and shall immediately pass to the person whose agreement to become occupant shall have been accepted by the Collector."

[3] As to the local modification of the words "occupant", "occupancy" and "registered occupant", *see* para. 4 of the third foot-note on p. 631, *supra*.

[4] S. 73A was inserted by the Bombay Land-revenue Act Amendment Act, 1901 (Bom. Act 6 of 1901), s. 11, Vol. IV of this Code.

[5] For notifications declaring the section applicable to certain villages, *see* Bombay Government Gazette 1902, pp. 298 and 1333.

in favour of more persons than one, the principal of such persons must enter into a written agreement to become the [1] registered occupant, and his name shall thereupon be substituted in the records for that of the previous registered [1] occupant.

Relinquishment of lands paying lump-assessment.

75. When a lump-assessment is fixed upon several fields or survey-numbers in the aggregate, it shall not be lawful for the [1] occupant to relinquish as aforesaid any one or more of such fields or survey-numbers except with the previous consent of the Collector.

It shall be competent to the Collector to grant or refuse his consent ; if he grants it, the [1] occupancy shall be divided, and the Collector shall determine the proportional amount of land-revenue to be paid by each portion of it ; and the original [1] occupant, and the person, if any, in whose favour he relinquishes a portion of his [1] occupancy, shall be held liable for the revenue severally assessed on their portions.

Application of sections 74 and 75.

[2] **76.** The provisions of the two last sections shall apply, as far as may be, to the holders of alienated land : Provided that—

Relinquishment of land described in paragraph 1 of section 49.

(*a*) it shall not be lawful to relinquish, as aforesaid, any portion of any land held wholly or partially exempt under the circumstances described in the first paragraph of section 49, until the commuted assessment payable in respect of such portion of land has been determined under the provisions of the said section ; and that,

Relinquishment of land described in section 51.

(*b*) if any person relinquish land on which, under the circumstances described in section 51, a larger revenue is levied than would ordinarily be leviable on such land, he shall be deemed to have relinquished also the land held with it which is wholly or partially exempt from payment of revenue.

Right of way to relinquished land.

77. If any person relinquishes land, the way to which lies through other land which he retains, the right of way through the land so retained shall continue to the future holder of the land relinquished.

Sections 75 and 76 not to affect—

responsibility of share in certain village ;

78. Nothing in sections 75 and 76 shall affect—

(*a*) the responsibility of any share in a village for the land-revenue of which the sharers are all, according to law or the custom of the village, jointly responsible, or

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[1] As to the local modification of the words "occupant," "occupancy", and "registered occupant", *see* para. 4 of the third foot-note on p. 631, *supra*.

[2] As to the local repeal of s. 76, *see* para. 4 of the third foot-note on p. 631, *supra*.

(*b*) the validity of the terms or conditions of any lease or other express instrument under which land is, or may hereafter be, held from Government. validity of lease from Government.

79. The registered [1] occupant or the holder of alienated land shall continue liable for the land-revenue due on the [1] occupancy or alienated holding and for all other lawful demands of Government in respect of the same, until such time as the [1] occupancy or alienated holding is relinquished or transferred, under any of the provisions of this Act, to the name of any other person; and the Collector shall not be bound in any case to recognize any person to whom any interest in any portion of an [1] occupancy or alienated holding has been assigned, unless the transfer has been recorded in the revenue-records in accordance with the foregoing provisions. Occupant to continue liable for demands until occupancy relinquished.

[2] **79A.** Any person unauthorizedly occupying, or wrongfully in possession of, any land— Summary eviction of person unauthorizedly occupying land.

(*a*) to the use and occupation of which he has ceased to be entitled under any of the provisions of this Act, or;

(*b*) of which the occupancy right is not transferable without previous sanction under section 73A or by virtue of any condition lawfully annexed to the occupancy under the provisions of section 62, 67 or 68,

may be summarily evicted by the Collector.

Remedies against Forfeiture of Occupancies.

80. In order to prevent the forfeiture of an [1] occupancy under the provisions of section 56 or of any other law for the time being in force, through non-payment by the [1] registered occupant of the land-revenue due on account thereof, it shall be lawful for any co-occupant, tenant, mortgagee or other person interested in the continuance of the [1] occupancy to pay on behalf of such [1] registered occupant all sums due on account of land-revenue, and [3] [the Collector shall on due tender thereof] receive the same. Right of person other than occupant to pay land-revenue to prevent forfeiture.

And in any such case the Collector may give to the person who has paid the land-revenue as aforesaid such aid for the recovery of the proportional amounts which he may consider to be properly payable by other persons in Collector may assist such persons in recovering the revenue from

[1] As to the local modification of the words "occupant", "occupancy" and "registered occupant," *see* para. 4 of the third foot-note on p. 631, *supra*.

[2] Section 79A was inserted by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 12, Vol. IV of this Code.

[3] Substituted for the words "for the Collector to" by s. 2 (*1*) of the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), Vol. IV of this Code.

other parties liable therefor.

occupation of parts of a field or survey-number as he might legally have given had the persons so paying been the [1] registered occupants.

Proviso.

Provided that nothing authorized or done under the provisions of this section shall affect the rights of the parties interested as the same may be established in any suit between such parties in a Court of competent jurisdiction.

When Collector may make co-occupant the registered occupant, instead of selling occupancy to realize land-revenue.

81. If it shall appear to the Collector that a registered [1] occupant has failed to pay land-revenue, and has thus incurred forfeiture with a view to injure or defraud his co-occupants or other persons interested in the continuance of the [1] occupancy or that a sale [2] [or other disposal] of the [1] occupancy will operate unfairly to the prejudice of such co-occupants or other persons, it shall be lawful for him, instead of selling [2] [or otherwise disposing of] the [1] occupancy to forfeit only the said registered occupant's interest in the same and to substitute the name of any such co-occupant or other person as [1] registered occupant thereof in the revenue-records, on his payment of all sums due on account of land-revenue for the [1] occupancy; and such person so becoming the registered [1] occupant shall have the rights and remedies with respect to all other persons in occupation provided for by section 86.

Suspension of certain Provisions of this Chapter.

Power to suspend operation of section 60 or 74.

[3] **82.** It shall be lawful for the Governor in Council, by notification in the *Bombay Government Gazette*, from time to time,—

(*a*) to suspend the operation of section 60 or 74, or of both, within any prescribed local area, either generally, or in respect of cultivators or occupants of a particular class or classes, and

(*b*) to cancel any such notification.

During the period for which any notification under the above clause (*a*) is in force within any local area, such rules shall be substituted for the provisions of which the operation is suspended as the Commissioner shall from time to time direct.

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[1] As to the local modification of the words "occupancy" and "registered occupant," *see* para. 4 of the third foot-note on p. 631, *supra*.

[2] These words were inserted in s. 81, by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 13, Vol. IV of this Code.

[3] As to the local repeal of s. 82, *see* para. 4 of third foot-note on p. 631, *supra*.

CHAPTER VII.

OF SUPERIOR AND INFERIOR HOLDERS.

Tenants' Rights.

Amount of rent payable by tenant.

83. A person placed, as tenant, in possession of land by another, or in that capacity, holding, taking or retaining possession of land permissively from or by sufferance of another, shall be regarded as holding the same at the rent, or for the services agreed upon between them; or in the absence of satisfactory evidence of such agreement, at the rent payable or services renderable by the usage of the locality, or, if there be no such agreement or usage, shall be presumed to hold at such rent as, having regard to all of the circumstances of the case, shall be just and reasonable.

Duration of tenancy.

And where, by reason of the antiquity of a tenancy, no satisfactory evidence of its commencement is forthcoming, and there is not any such evidence of the period of its intended duration, if any, agreed upon between the landlord and tenant or those under whom they respectively claim title, or any usage of the locality as to duration of such tenancy, it shall, as against the immediate landlord of the tenant, be presumed to be co-extensive with the duration of the tenure of such landlord and of those who derive title under him.

Presumption as to tenure.

And where there is no satisfactory evidence of the capacity in which a person in possession of land in respect of which he renders service or pays rent to the landlord, received, holds or retains possession of the same, it shall be presumed that he is in possession as tenant.

Saving clause.

Nothing contained in this section shall affect the right of the landlord (if he have the same either by virtue of agreement, usage or otherwise) to enhance the rent payable, or services renderable, by the tenant, or to evict the tenant for non-payment of the rent or non-rendition of the services, either respectively orginally fixed or duly enhanced as aforesaid.

Termination of annual tenancy.

84. An annual tenancy shall, in the absence of proof to the contrary, be presumed to run from the end of one cultivating season to the end of the next. The cultivating season may be presumed to end on the thirty-first March.

Notice of termination of tenancy to be given by landlord to tenant or *vice versa*.

An annual tenancy shall require for its termination a notice given in writing by the landlord to the tenant or by the tenant to the landlord, at least three months before the end of the year of tenancy at the end of which it is intimated that the tenancy is to cease. Such notice may be in the form of Schedule E or to the like effect.

Superior holders' dues by whom

[1] **85.** It shall be incumbent on every superior holder of an alienated village, and on every superior holder of an alienated share of a village in which there

[1] S. 85 has been declared not to be in force in the Panch Mahals—*see* Article 7 of 1885, s. 2, Vol. I of this Code, p. 214. As to the local repeal of the section, *see* para. 4 of the third foot-note on p. 631, *supra*.

to be collected.

exists an hereditary patel and village-accountant, to receive his dues on account of rent or land-revenue from the inferior holders through the said village-officers.

Any such superior holder demanding or receiving payment from any inferior holder of any rent or land-revenue otherwise than through the said village-officers shall, on conviction in a summary inquiry before the Collector, forfeit to Government three times the amount of the sum so demanded or received.

Every such hereditary patel or accountant shall be bound to receive and account to the said superior holder for all sums paid to or recovered by him, on account of the said superior holder, and, on his or their failure to do the same, the superior holder shall, with the previous consent of the Collector, be entitled to recover his dues direct from the inferior holders.

Recovery of Superior Holders' Dues.

Superior holders entitled to assistance in recovery of dues from inferior holders, etc.

86. Superior holders shall upon written application to the Collector, be entitled to assistance, by the use of precautionary and other measures, for the recovery of rent or land-revenue payable to them by inferior holders, or by co-sharers in their holdings, under the same rules, except that contained in section 137, and in the same manner, as prescribed in Chapter XI * * *[1] for the realization of land-revenue by Government:

Application for assistance when to be made.

Provided that such application be made within the revenue-year or within the year of tenancy in which the said rent or land-revenue became payable.

Collector how to proceed on such application.

[2]**87.** On application being made under section 86 to the Collector, he shall cause a written notice thereof to be served on the inferior holder or co-sharer fixing a day for inquiry into the case.

On the day so fixed he shall hold a summary inquiry, and shall pass an order for rendering assistance to the superior holder for the recovery of such amount, if any, of rent or land-revenue as appears to him upon the evidence before him to be lawfully due.

Assistance may be refused or granted in part.

But, if it appears to the Collector that the question at issue between the parties is of a complicated or difficult nature, he may in his discretion either refuse the assistance asked for, or, if the land to which the dispute relates has been assessed under the provisions of Chapter VIII * * *[1] or any survey-

[1] The words " of this Act " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 13 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol IV of this Code.

[2] But *cf.* s. 12 of the Bombay Record of Rights Act, 1903 (Bom. Act 4 of 1903), Vol. IV of this Code.

settlement confirmed by section 112, grant assistance to the extent only of the assessment so fixed upon the said land.

Nothing in this section shall prevent either party from having recourse to the Civil Courts to recover from the other such amount as he may deem to be still due to him, or to have been levied from him in excess of what was due as the case may be. Civil suit not barred.

[1]88. It shall be lawful for the Governor in Council at any time to issue a commission to any holder of alienated lands, conferring upon him all or any of the following powers in respect of the lands specified in such commission (namely) :— Governor in Council may, by commission, confer on holders of alienated lands power—

(*a*) to demand security for the payment of the land-revenue or rent due to him, and, if the same be not furnished, to take such precautions as the Collector is authorized to take under sections 141 to 143 ; to demand security for land-revenue ;

(*b*) to attach the property of persons making default in the payment of such land-revenue or rent, as aforesaid ; to attach defaulter's property ;

(*c*) to fix from time to time the times at which, and the instalments in which, the land-revenue or rent due to him shall be payable ; to fix time at, and instalments in, which revenue due shall be paid ;

(*d*) to exercise the powers of a Collector under sections 65 and 66 ; to exercise Collector's powers ;

(*e*) to receive notices of relinquishment under section 74, and to determine the date up to which such notices shall be received as in that section provided ; to receive notices of relinquishment ;

(*f*) to take measures for the maintenance and repair of boundary-marks in the manner provided for Survey-officers in section 122 : to arrange for repair of boundary-marks.

Provided that the powers contemplated in clauses (*c*) to (*f*) shall be conferred only on holders of lands to which a survey-settlement has been extended under the provisions of section 216. Proviso.

[1]89. Every such commission shall be in the form of Schedule F, and shall be liable to be withdrawn at the pleasure of Government, and a commission may, if the Governor in Council see fit, be issued to one or more agents of a holder of alienated lands as well as to the holder in person. Form of such commission.

90. If the holder of any such commission attach a defaulter's property, he shall make an immediate report to the Collector of his having done so. Should the demand on account of which the attachment has been made appear to the Collector, after such inquiry as he may deem fit to make, to be just, he Reference to be made by holder of commission to Collector.

[1] As to the local modification of ss. 88 and 89, *see* para. 4 of third foot-note on p. 1631, *supra*.

shall give orders for the sale of the property, and the sale shall be conducted agreeably to the provisions of sections 165 to 186.

But if the holder of the commission is invested, under [1]Regulation XIII of 1830, with civil jurisdiction and with power to execute his own or his agent's decrees the sale shall be conducted by him and not by the Collector and his subordinates.

When compulsory process shall cease.

91. All compulsory process shall cease—

on the defaulter's paying or tendering the amount demanded of him under protest, or

on his furnishing, either to the holder of the commission or his agent or agents, or to the Collector, satisfactory security in the form of Schedule D, or to similar effect.

Penalty for continuing compulsory process.

And any holder of any such commission as aforesaid, by himself or his agents, proceeding with any compulsory process after payment made or tendered as aforesaid, or after the furnishing of such security as aforesaid, or after tender thereof, shall be liable, on conviction in a summary inquiry before the Collector, to a penalty not exceeding three times the amount of the revenue sought to be recovered by such compulsory process.

Arrears to which power under commission to extend.

92. The power conferred by any such commission shall extend to the enforcement of the payment of the revenue or rent of the current year and of the year next immediately preceding, but not to that of former years.

Holder of commission not to enforce unusual or excessive demand.

93. The holder of any such commission shall not enforce a demand for revenue or rent in excess of what any inferior holder has paid previously to the date of such demand, or of what he may have contracted in writing to pay.

In the event of a dispute the Collector shall hold a summary inquiry and decide what is just, and the holder of a commission shall not enforce a demand for more than what is so decided to be just.

Penalty for so doing.

The person against whom any demand shall have been enforced in excess of the amount of which payment is lawfully enforceable shall be entitled to recover, on conviction of the holder of the commission in a summary inquiry before the Collector, three times the amount of any such excessive demand by way of damages, and the sum so due by the holder of the commission shall be leviable from him as an arrear of land-revenue.

Holder of commission may establish right to

[2]**94.** Nothing in the last section shall be deemed to prevent a holder of alienated land from instituting a suit in any Court of competent jurisdiction for the purpose of establishing his claim to re-assess the lands or re-settle the

[1] Vol. I of this Code, p. 39 .

[2] As to the local modification of s. 94, *see* para. 4 of the third foot-note on p. 631, *supra*.

revenue of any inferior holder paying less than the full sum to payment of which he deems him to be justly liable, or from levying the sum ascertained to be due in accordance with the decree in any such suit in the manner herein before mentioned. enhanced rent in Civil Court.

CHAPTER VIII.

Of Survey-settlements and the Partition of Estates.

95. It shall be lawful for the Governor in Council, whenever it may seem expedient, to direct the survey of any land in any part of the Presidency, with a view to the settlement of the land-revenue, and to the record and preservation of rights connected therewith, or for any other similar purpose, and such survey shall be called a revenue-survey. Power to introduce revenue-survey into any part of Presidency.

Such survey may extend to the lands of any village, town or city generally, or to such land only as the Governor in Council may [1] direct, and, subject to the orders of the Governor in Council, it shall be lawful for the officers conducting any such survey to except from the survey-settlement any land to which it may not seem expedient that such settlement should be applied.

The control of every such revenue-survey shall vest in, and be exercised by, the Governor in Council. Control of revenue-survey.

96. It shall be lawful for the Survey-officer deputed to conduct or take part in any such survey to require, by general notice or by summons, the attendance of holders of lands and of all persons interested therein, in person or by legally constituted agent duly instructed and able to answer all material questions, and the presence of táluqá and village officers, who in their several stations and capacities are legally, or by usage, bound to perform service in virtue of their respective offices, and to require from them such assistance in the operations of the survey and such service in connection therewith as may not be inconsistent with the position of the individual so called on. Survey-officer may require, by general notice or by summons, suitable service from holders of land, etc.

97. It shall be lawful for the survey-officer to call upon all holders of land and other persons interested therein to assist in the measurement or classification of the lands to which the survey extends by furnishing flag-holders; and, in the event of a necessity for employing hired labour for this or other similar object incidental to survey-operations, it shall be lawful to assess the cost thereof, with all contingent expenses, on the lands surveyed, for collection as a revenue-demand. Assistance to be given by holders and others in measurement, or classification of lands.

[1] For notification as to the extension of the Revenue survey to certain villages and the survey of certain settlement works, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. 540.

Survey-numbers not to be of less extent than minimum fixed.

98. Except as hereinafter provided, no survey-number comprising land used for purposes of agriculture only shall be made of less extent than a minimum to be [1]fixed from time to time for the several classes of land in each district by the Commissioner of Survey, with the sanction of Government.

A record of the minima so fixed shall be kept in the Mámlatdár's office in each táluqá, and shall be open to the inspection of the public at reasonable times.

Exception.

These provisions shall not apply to survey-numbers which have already been made of less extent than the minima so fixed, or which may be so made under the authority of the Commissioner of Survey given either generally or in any particular instance in this behalf; and any survey-number separately recognized in the survey-records shall be deemed to have been authorizedly made, whatever be its extent.

Provisions applicable to recognized shares of survey-numbers.

99. Recognized shares of survey-numbers shall be subject to the same provisions of this Act as are applicable to entire survey-numbers except—

(*a*) that it shall not be obligatory to demarcate such shares separately, and

[2] (*b*) that if any such share is relinquished by the [3] occupant absolutely under the provisions of section 74, the [3] occupancy thereof shall be offered to the [3] occupants of the other shares of the same survey-number in order of [4][the] relative largeness of the amounts payable by them respectively on account of the assessment of their said shares, and that, in the event of their all refusing the [3] occupancy of the said share, the assessment thereon shall, until such time as the entire number is relinquished by them, be levied from them in proportion to the amounts of assessment payable by them as aforesaid.

Officer in charge of survey to fix assessment.

100. Subject to rules or orders made in this behalf, under section 214, the officer in charge of a survey shall have authority to fix the assessment for land-revenue at his discretion on all lands within the local operation of an order made under section 95, not wholly exempt from land-revenue, and the amounts due according to such assessment shall, subject to the provisions of section 102, be levied on all such lands.

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[1] For notifications fixing scales for the regulation of sub-divisions of survey-numbers, *see* Bombay Local Rules and Orders, Ed. 1898, pp. 540–542.

[2] As to local repeal of s. 99, cl. (*b*), *see* para. 3 of third foot-note on p. 631, *supra*.

[3] As to the local modification of the words "occupant" and "occupancy" *see* para. 4 of the third foot-note on p. 631, *supra*.

[4] "The" was substituted for "their" by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

In fixing such assessment, regard shall be had to the requirements of the proviso to section 52 : Regard to be had to proviso to section 52.

But nothing in this section shall be deemed to prevent the Survey-officer aforesaid from determining and registering the proper full asesssment on lands wholly exempt from payment of land-revenue or on lands especially excepted under section 95 from the survey-settlement, or from dividing all such lands to which the survey extends into survey-numbers. Proviso

101. The power to assess under the preceding section shall, in the case of lands used for purposes of agriculture alone, include power to assess, whether directly on the land, or in the form of a rate or cess upon the means of irrigation in respect of which no rate is [1][levied] under section 55 [2][or under the Bombay Irrigation Act, 1879] or in any other manner whatsoever that may be sanctioned by Government. Assessment may be on land, or on means of irrigation, etc.

Bom. VII of 1879.

102. The assessment fixed by the officer in charge of a survey shall not be levied without the sanction of Government. It shall be lawful for the Governor in Council to declare such assessments, with any modifications which he may deem necessary, fixed for a term of years not exceeding thirty in the case of lands used for the purposes of agriculture alone, and not exceeding ninety-nine in the case of all other lands. Assessments not leviable without sanction of Government. But may be fixed, with or without modification, for term of years.

[3]**103.** When in the case of lands used for the purposes of agriculture alone, Government shall have sanctioned the assessments fixed by the officer in charge of the survey, it shall be the duty of the said officer, or of the Collector or Assistant or Deputy Collector, publicly to announce, or to cause to be announced, the assessment fixed on each survey-number. Introduction of survey-settlement how made.

The said officer, or the Collector or Assistant or Deputy Collector shall, at a reasonable time beforehand, cause public notice to be given in such manner as he shall deem fit, of the time at or about which the assessments will be announced as aforesaid.

If the holder or other person interested in any holding do not appear in person or by agent, he shall be subject, nevertheless, to the same liabilities as if he had attended.

When the assessments have been announced in the manner provided in the first clause of this section, the survey-settlement shall be held to have been introduced.

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[1] "Levied" was substituted for "leviable" by the Bombay Irrigation Act, 1879 (Bom. Act 7 of 1879), s. 2, p. 754, *infra*.

[2] This reference was inserted by the Bombay Irrigation Act, 1879 (Bom. Act 7 of 1879), s. 2, p. 754, *infra*.

[3] As to the local modification of s. 103, *see* para. 3 of the third foot-note, on p. 631, *supra*

Excess assessment not to be levied in year in which survey-settlement is introduced;

104. In the year in the course of which a survey-settlement, whether original or revised, may be introduced under the last preceding section, the difference between the old and new assessment of all lands on which the latter may be in excess of the former shall be remitted, and the revised assessment shall be levied only from the next following year.

nor in following year if number resigned that year.

[1] In the year next following that in which any [2] [original or] revised survey-settlement has been introduced, any [3] occupant who may be dissatisfied with the increased rate imposed by such new assessment on any of the survey-numbers held by him shall, on resigning such number in the manner prescribed by sections 74 and 76 on or before the thirty-first March, receive a remission of the increase so imposed.

Fixing of assessment under section 102 limited to ordinary land-revenue.

105. The fixing of the assessment under the provisions of section 102 shall be strictly limited to the assessment of the ordinary land-revenue, and shall not operate as a bar to the levy of any cess which it shall be lawful for the Governor in Council to impose under the provisions of any law for the time being in force for purposes of local improvement, such as schools, village and district roads, bridges, tanks, wells, accommodation for travellers and the like, or of any rate for the use of water which may be imposed under the provisions of section 55 [4] [or of the Bombay Irrigation Act, 1879.] Bom. VII of 1879.

Government may direct fresh survey and revision of assessment.

106. It shall be lawful for the Governor in Council to direct, at any time, a fresh revenue-survey or any operation subsidiary thereto, but no enhancement of assessment shall take effect till the expiration of the period previously fixed under the provisions of section 102 :

[5] Provided that, when a general classification of the soil of any area has been made a second time, or when any original classification of any area has been approved by the Governor in Council as final, no such classification shall be again made with a view to the revision of the assessment of such area.

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[1] As to the local repeal of s. 104, para. 2, *see* para. 3 of the third foot-note on p. 631, *supra*.

[2] These words were inserted by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

[3] As to the local modification of the word "occupant", *see* para. 4 of the third foot-note on p. 631, *supra*.

[4] This reference was added by the Bombay Irrigation Act, 1879 (Bom. Act 7 of 1879), s. 2, p. 754, *infra*.

[5] This proviso was substituted for the second para. of s. 106 by the Bombay Land-revenue Code Amendment Act, 1886 (Bom. Act 4 of 1886), s. 1, *infra*, p. 861.

The original para. was as follows :—

"A revised assessment shall be fixed, not with reference to improvements made from private capital and resources during the currency of any settlement made under this Act or under Bombay Act I of 1865, but with reference to general considerations of the value of land, whether as to soil or situation, prices of produce, or facilities of communications."

Revision of assessment.

[1] **107.** In revising assessments of land-revenue regard shall be had to the value of land and, in the case of land used for the purposes of agriculture, to the profits of agriculture:

Provided that, if any improvement has been effected in any land during the currency of any previous settlement made under this Act, or under [2] Bombay Act 1 of 1865, by or at the cost of the holder thereof, the increase in the value of such land or in the profit of cultivating the same, due to the said improvement, shall not be taken into account in fixing the revised assessment thereof.

Preparation of statistical and fiscal records.

108. It shall be the duty of the Survey-officer, on the occasion of making or revising a settlement of land-revenue, to prepare a register, to be called "the settlement-register", showing the area and assessment of each survey-number, together with the name of the [3] registered occupant of such survey-number and other records, in accordance with such orders as may from time to time be made on this behalf by Government.

Officers to correct clerical and admitted errors in settlement-register, and

[4] **109.** The Survey-officer, or, if the survey-settlement have been introduced under the provisions of section 103 by the Collector or Assistant or Deputy Collector, the Collector or Assistant or Deputy Collector, shall at any time correct or cause to be corrected any clerical errors, and any errors which the parties interested admit to have been made in the settlement-register;

inquire into and pass orders on applications for mutation of names.

he shall also receive and enquire into all applications made to him at any time within two years after the introduction of the survey-settlement for the correction of any wrong entry of a registered occupant's name in the said register, and if satisfied that an error has been made, whether through fraud, collusion, oversight or otherwise, shall correct or cause the same to be corrected, notwithstanding that all the parties interested do not admit the error;

but he shall not receive any such application at any time after two years from the date of the introduction of the survey-settlement, unless good cause

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[1] This section was substituted by the Bombay Land-revenue Code Amendment Act, 1886 (Bom. Act 4 of 1886), s. 2, *infra*, p. 861.

The original section was as follows:—

"Nothing in the last preceding section shall be held to prevent a revised assessment being fixed:—

(*a*) with reference to any improvement effected at the cost of Government, or

(*b*) with reference to the value of any natural advantage, when the improvement effected from private capital and resources consists only in having created the means of utilizing such advantages, or

(*c*) with reference to any improvement which is the result only of the ordinary operations of husbandry."

[2] The Bombay Survey and Settlement Act, 1865 (Bom. Act 1 of 1865, except ss. 37 and 38), p. 451, *supra*, is repealed by s. 2 of this Act.

[3] As to the local modification of the words "registered occupant," *see* para. 4 of the third foot-note on p. 631, *supra*.

[4] As to the local repeal of s. 109, *see* paras. 3 and 4 of the third foot-note on p. 631, *supra*.

be shown to his satisfaction for the delay in making such application, and no such correction of the said register shall be made in consequence of any application made after the said period of two years, except with the previous sanction of Government.

Collector to keep survey-records and frame village-records in accordance therewith;

[1] **110.** The Collector shall keep the settlement-register and such other records prepared by the Survey-officer as Government shall direct, and shall cause the village-records and accounts to be prepared in accordance therewith;

and to register changes, etc.

he shall not make any alterations or corrections in the settlement-register, but shall cause to be registered in the village-records and accounts all changes that may take place, and anything that may affect any of the rights or interests therein recorded.

Revenue-management of villages or estates not belonging to Government that may be temporarily under Government management.

[2] **111.** In the event of any alienated village or estate coming under the temporary management of Government officers, it shall be lawful for the Collector to let out the lands thereof at rates determined by means of a survey-settlement or at such other fixed rates as he may deem to be reasonable, and to sell the occupancy of unoccupied lands by auction, and otherwise to conduct the revenue management thereof under the rules for the management of unalienated lands, so far as such rules may be applicable, and for so long as the said village or estate shall be under the management of Government officers:

Provided, however, that any written agreements relating to the land, made by the superior holder of such village or estate, shall not be affected by any proceedings under this section in so far as they shall not operate to the detriment of the lawful claims of Government on the land.

Maintenance of existing settlements of land-revenue.

[3] **112.** Existing survey-settlement of land-revenue made, approved and confirmed under the authority of the Governor in Council shall be, and are hereby declared to be, in force subject to the provisions of this Act.

Partition.

Rules for partition of an estate paying revenue to Government.

[2] **113.** The following rules shall be enforced at the partition of any estate paying land-revenue to Government (namely):—

(1) The estate shall be divided as far as possible according to survey-numbers without sub-dividing any number; but, if the parti-

[1] As to the local repeal of s. 110, *see* paras. 3 and 4 of the third foot-note on p. 631, *supra*.
[2] As to the local modification of ss. 111 and 113, *see* para. 4 of the third foot-note on p. 631, *supra*.
[3] As to the local repeal of s. 112, *see* para. 3 of the third foot-note on p., 631, *supra*.

tion cannot be completely effected without sub-dividing a number, such sub-division may be made by the Collector, subject to the provisions of section 98;

(2) any number, or sub-division of a number, which may remain over after the partition has been carried out, as far as possible according to the last rule, and which is incapable of sub-division or of further sub-division owing to the provisions of section 98, shall be made over to one of the sharers in consideration of his paying to the other sharers the value in money of their shares in the same, or shall be sold and the proceeds divided amongst all the sharers, or otherwise disposed of as the Collector thinks fit;

(3) the expenses necessarily and properly incurred in making such partition shall be recoverable as a revenue-demand in such proportions as the Collector thinks fit from the sharers at whose request it is made, or from the persons interested in such partition.

Partition of certain estates by Collector on application by co-sharers.

114. Whenever any one or more co-sharers in a khotí estate into which a revenue-survey has been introduced [1] [or in a tálukdári estate], consent to a partition of the said estate, it shall be lawful for the Collector, or for any other officer duly empowered by him in this behalf, subject to the rules contained in the last preceding section, to divide the said estate into shares according to the respective rights of the co-sharers, and to allot such share to the co-sharers:

Provided that no such partition shall be made, unless—

(*a*) all the co-sharers are agreed as to the extent of their respective rights in the estate, and

(*b*) the assessment of the share or shares of the sharer or sharers consenting to such partition exceeds one-half of the assessment of the entire estate.

In such cases the expenses of partition shall be recovered under rule (3) of the last preceding section from all the co-sharers in the estate divided.

Sub-division of numbers at time of

115. At the time of a revision of survey, it shall be in the discretion of the officer in charge of the survey, subject to the provisions of section 98,

[1] These words are repealed in the districts of Ahmedabad, Kaira, Broach and the Panch Maháls by the Gujarát Tálukdárs Act, 1888 (Bom. Act 6 of 1888), s. 3, Vol. III of this Code.

revision of survey.

and to any departmental rules or orders in this behalf at the time in force, to sub-divide any survey number into two or more distinct numbers, and to enter the names and liabilities of the persons whom he shall deem entitled to be recognized as [1] registered occupants of such sub-divisions in the settlement-register separately.

Separate demarcation of land appropriated under section 65 or 67.

[2] **116.** When any portion of cultivable land is appropriated under the provisions of section 65 or 67 for any non-agricultural purpose, the portion so appropriated may, with the sanction of the Collector, be demarcated, and made into a separate number at any time notwithstanding the provisions of section 98.

Bombay Act V of 1862 not affected.

117. Nothing in section 113, 115 or 116 shall affect the provisions of [3] Bombay Act V of 1862.

CHAPTER IX.

THE SETTLEMENT OF BOUNDARIES AND THE CONSTRUCTION AND MAINTENANCE OF BOUNDARY-MARKS.

Determination of village-boundaries.

[4] **118.** The boundaries of villages situated in British territory shall be fixed, and all disputes relating thereto shall be determined, by Survey-officers, or by such other officers as may be nominated by Government for the purpose, who shall be guided by the following rules :—

Village-boundaries may be settled by agreement.

Rule 1.—When the patels and other village-officers of any two or more adjoining villages, and in the case of an alienated village the holder thereof or his duly constituted agent, shall voluntarily agree to any given line of boundary as the boundary common to their respective villages, the officer determining the boundary shall require the said parties to execute an agreement to that effect, and shall then mark off the boundary in the manner agreed upon.

And any village-boundary fixed in this manner shall be held to be finally settled, unless it shall appear to the said officer that the agreement has been obtained by fraud, intimidation or any other illegal means.

Procedure in case of disagreement or dispute.

Rule 2.—If the patels and other village-officers, and, in the case of an alienated village, the holder thereof, or his duly constituted agent, do not agree to fix the boundaries of their respective villages in the manner prescribed in

[1] As to the local modification of the words "registered occupants," *see* para. 4 of the third foot-note on p. 631, *supra*.
[2] As to the local repeal of s. 116, *see* para. 4 of the third foot-note on p. 631, *supra*.
[3] *Supra*, p 372.
[4] As to the local modification of s. 118, *see* para. 3 of the third foot-note on p. 631, *supra*.

the preceding rule, or if it shall appear to the said officer that the agreement has been obtained by fraud, intimidation or any other illegal means or if there be any pending dispute, the said officer shall make a survey and plan of the ground in dispute exhibiting the land claimed by the contending parties, and all particulars relating thereto, and shall hold a formal inquiry into the claims of the said parties, and thereafter make an award in the case. If either of the villages concerned be alienated, an award made by a Survey-officer shall, unless the officer making it be the Superintendent of Survey, be subject to his confirmation, and an award made by any other officer shall be subject to confirmation by such other officer as Government may nominate for the purpose.

Determination of field boundaries.

[1] **119.** If, at the time of a survey, the boundary of a field or holding be undisputed, and its correctness be affirmed by the village-officers then present, it may be laid down as pointed out by the holder or person in occupation, and, if disputed, or if the said holder or person in occupation be not present, it shall be fixed by the Survey-officer according to the village-records, and according to occupation as ascertained from the village-officers and the holders of adjoining lands, or on such other evidence or information as the Survey-officer may be able to procure.

If any dispute arise concerning the boundary of a field or holding which has not been surveyed, or if at any time after the survey-records have been handed over to the Collector, a dispute arise concerning the boundary of any survey-number, it shall be determined by the Collector, who shall be guided in the case of survey-numbers by the survey-records, if they afford satisfactory evidence of the boundary previously fixed, and, if not, by such other evidence as he may be able to procure.

Settlement of boundary-disputes by arbitration.

120. If the several parties concerned in a boundary-dispute agree to submit the settlement thereof to an arbitration committee, and make application to that effect in writing, the officer whose duty it would otherwise be to determine the boundary shall require the said parties to nominate a committee of not less than three persons, within a specified time, and, if within a period to be fixed by the said officer the committee so nominated or a majority of the members thereof arrive at a decision, such decision when confirmed by the said officer, or, if the said officer be a Survey-officer lower in rank than a Superintendent of Survey, by the Superintendent of Survey, shall be final:

[1] As to the local modification of s. 119, *see* para. 3 of the third foot-note on p. 631, *supra*.

When award may be remitted for reconsideration.

Provided that the said officer, or the Superintendent of Survey, shall have power to remit the award, or any of the matters referred to arbitration, to the reconsideration of the same committee, for any of the causes set forth in section 520 of the [1] Code of Civil Procedure.

If arbitration fail, Survey-officer to settle dispute.

If the committee appointed in the manner aforesaid fail to effect a settlement of the dispute within the time specified, it shall be the duty of the officer aforesaid, unless he or, if the said officer is a Survey-officer lower in rank than a Superintendent of Survey, the Superintendent of Survey, see fit to extend the time, to settle the same as otherwise provided in this Act.

Effect of settlement of boundary.

121. The settlement of a boundary under any of the foregoing provisions of this Chapter shall be determinative :—

(*a*) of the proper position of the boundary-line or boundary-marks, and

(*b*) of the rights of the landholders on either side of the boundary fixed in respect of the land adjudged to appertain, or not to appertain, to their respective holdings.

Boundary-Marks.

Construction and repair of boundary-marks of villages and survey-numbers.

122. It shall be lawful for any Survey-officer authorized by a Superintendent of Survey or Settlement-officer, to [2] [specify, or cause to be constructed, laid out, maintained or repaired] boundary-marks of villages or survey-numbers, whether cultivated or uncultivated, and to assess all charges incurred thereby on the holders or others having an interest therein.

Requisition on landholders to erect or repair boundary-marks.

Such officer may require landholders to construct [3] [lay out, maintain] or repair their boundary-marks, by a notification which shall be posted in the chaurí or other public place in the village, to which the lands under survey belong, directing the holders of survey-numbers to construct [3] [lay out, maintain] or repair, within a specified time, the boundary-marks of their respective survey-numbers, and, on their failure to comply with the requisition so made, the Survey-officer shall then construct, [3] [lay out] or repair them, and assess all charges incurred thereby as hereinbefore provided.

General notification to be sufficient notice of requisition.

A general notification, issued in the manner aforesaid, shall be held to be good and sufficient notice to each and every person having any interest in any survey-numbers within the limits of the lands to which the survey extends.

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[1] *See* now the Code of Civil Procedure (Act 14 of 1882), as modified up to 1st December, 1899.

[2] These words were substituted for the words "caused to be constructed or repaired" by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901) s. 14 (*1*), Vol. IV of this Code.

[3] These words were inserted in the second para. of s. 122 by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 14 (2), Vol. IV of this Code.

(Chap. IX.—The Settlement of Boundaries and the Construction and Maintenance of Boundary-marks. Secs. 123-125. Chap. X.—Of Lands within the Sites of Villages, Towns and Cities. Sec. 126.)

Description of boundary-marks.

[1] The boundary-marks shall be of such description, and shall be constructed, laid out, maintained or repaired in such manner and shall be of such dimensions and materials as may, subject to rules or orders made in this behalf under section 214, be determined by the Superintendent of Survey, according to the requirements of soil and climate.

Responsibility for maintenance of boundary-marks.

[2] **123.** Every landholder shall be responsible for the maintenance and good repair of the boundary-marks of his holding, and for any charges reasonably incurred on account of the same by the Revenue-officers in cases of alteration, removal or disrepair. It shall be the duty of the village-officers and servants to prevent the destruction or unauthorized alteration of the village-boundary-marks.

Collector to have charge of boundary-marks after introduction of survey-settlement.

124. When the survey-settlement shall have been introduced into a district, the charge of the boundary-marks shall devolve on the Collector, and it shall be his duty to take measures for their [3] [construction, laying out] maintenance and repair, and for this purpose the powers conferred on Survey-officers by section 122 shall vest in him.

Penalty for injuring boundary-marks.

125. Any person convicted, after a summary inquiry before the Collector, or before a Survey-officer, Mámlatdár or Mahálkari, of wilfully erasing, removing or injuring a boundary-mark, shall be liable to a fine not exceeding fifty rupees for each mark so erased, removed or injured.

One-half of every fine imposed under this section may be awarded by the officer imposing it to the informer, if any, and the other half shall be chargeable with the cost of restoring the mark.

CHAPTER X.

Of Lands within the Sites of Villages, Towns and Cities.

Fixing of Sites.

Limits of sites of villages.

126. It shall be lawful for the Collector or for a Survey-officer acting under the general or special orders of Government to determine what lands are

[1] This para. was substituted by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 14 (*3*), Vol. IV of this Code. The original para. was as follows:—

"The size, material and description of boundary-marks shall be such as may be deemed necessary by the Superintendent of Survey, according to the requirements of soil and climate."

[2] As to the local modification of s. 123, *see* para. 3 of the third footnote on p. 631, *supra*.

[3] These words were inserted in s. 124 by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 15, Vol. IV of this Code.

towns and cities how fixed.

included within the site of any village, town or city, and to [1] fix, and from time to time to vary, the limits of the same, respect being had to all subsisting rights of landholders.

Exemption from Land-revenue.

Act XI of 1852 and Bombay Acts II and VII of 1863 how far applicable to lands in such sites.

[2] **127.** [3] Act XI of 1852, and Bombay Acts II [4] and VII [5] of 1863, shall be deemed to be applicable and to have always been applicable in the territories to which they respectively extend, to all lands within the limits of the site of any town or city in which an inquiry into titles has been made under the provisions of [6] Bombay Act IV of 1868, which have been hitherto ordinarily used for agricultural purposes only; but the provisions of the said Acts shall not be deemed applicable to any other lands within the limits of the site of any such town or city.

Existing exemption when continued in case of certain lands.

[2] **128.** The existing exemption from payment of land-revenue of lands other than lands which have hitherto been ordinarily used for purposes of agriculture only, situate within the sites of towns and cities in which an inquiry into titles has been made under the provisions of [6] Bombay Act IV of 1868 shall be continued—

1st, if such lands are situated in any town or city where there has been in former years a survey which Government [7] recognize for the purpose of this section, and are shown in the maps or other records of such survey as being held wholly or partially exempt from the payment of land-revenue;

2nd, if such lands have been held wholly or partially exempt from the payment of land-revenue for a period of not less than five years before the application of [8] Bombay Act I of 1865 or [6] IV of 1868 to such town or city;

3rd, if such lands, for whatever period held, have been held wholly or partially exempt from payment of land-revenue under a deed of grant or of confirmation issued by an [9] officer whom Government recognize as having been competent to issue such deed.

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[1] For notifications fixing limits, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, pp. 542 to 545.

[2] As to the local repeal of ss. 127 and 128, *see* para. 4 of the third footnote on p. 631, *supra.*

[3] Vol. I of this Code, p. 58.

[4] *Supra*, p. 386.

[5] *Supra*, p. 437.

[6] Bom. Act 4 of 1868 is repealed by s. 2 of this Act.

[7] For notification recognizing such a survey, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. 546.

[8] Bom. Act I of 1865 (except ss. 37 and 38) is repealed by s. 2 of this Act. For the unrepealed sections, *see supra*, p. 451.

[9] For notification recognizing an officer for the purposes of this clause, *see* Bombay Government Gazette, 1896, Pt. I, p. 1312.

Right to exemption determined by Collector.

[1]**129.** Claims to exemption under the last preceding section shall be determined by the Collector after a summary inquiry, and his decision shall be final.

Occupancy-price payable in addition to assessment in certain cases.

[1]**130.** In towns and cities to which section 128 applies, the holders of any lands other than lands which have hitherto been used for purposes of agriculture only, which have been unauthorizedly occupied for a period commencing less than two years before [2] Bombay Act I of 1865 or [3] IV of 1868 was applied to the town or city in which the said lands are situate, shall be liable to pay the price of the occupancy of the said lands in addition to the land-revenue assessed thereupon.

The said occupancy-price shall be determined according to the provisions of section 62.

Miscellaneous.

Survey of land in such sites how conducted.

[1]**131.** If the Governor in Council shall at any time deem it expedient to direct a survey of the lands other than those used ordinarily for the purposes of agriculture only within the site of any village, town or city, under the provisions of section 95, or a fresh survey thereof under the provisions of section 106, such survey shall be conducted, and all its operations shall be regulated, according to the provisions of Chapters VIII and IX of this Act:

Proviso.

Provided that nothing contained in section 96, 97, 101, 103, 104 or 118 thereof shall be considered applicable to any such survey in any town or city containing more than two thousand inhabitants.

In certain cases survey-fee to be charged.

[1]**132.** When a survey is extended under the provisions of the last preceding section to the site of any town or city containing more than two thousand inhabitants, each holder of a building-site shall be liable to the payment of a survey-fee to be assessed by the Collector under such rules as may be prescribed in this behalf from time to time by Government: Provided that the said fee shall in no case exceed rupees five for each survey-number.

The said survey-fee shall be payable within six months from the date of a public notice to be given in this behalf by the Collector after the completion of the survey of the site of the town or city, or of such part thereof as the notice shall refer to.

In any town or city in which [3] Bombay Act IV of 1868 was in force before the passing of this Act, a similar public notice shall be issued by the

[1] As to the local repeal of ss. 129 to 132, *see* para. 4 of the third foot note on p. 631, *supra*.

[2] Bom. Act 1 of 1865 (except ss. 37 and 38) is repealed by s. 2 of this Act. For the unrepealed section, *see supra*, p. 451.

[3] Bom. Act 4 of 1868 is repealed by s. 2 of this Act.

Collector within six months after the passing of this Act[1] * * * * * *.

Sanad to be granted without extra charge.

[2]133. Every holder of a building-site as aforesaid shall be entitled, after payment of the said survey-fee, to receive from the Collector without extra charge one or more sanads, in the form of Schedule H, specifying by plan and description the extent and conditions of his holding:

Proviso.

Provided that, if such holder do not apply for such sanad or sanads at the time of payment of the survey-fee or thereafter within six months from the date of the public notice issued by the Collector under the last preceding section, the Collector may require him to pay an additional fee not exceeding one rupee for each sanad.

Every such sanad shall be executed on behalf of the Secretary of State for India in Council by such officer as may from time to time be lawfully empowered to execute the same.

Assessment of lands hitherto used for purpose of agriculture only, appropriated to other purposes.

[2]134. If any land within the site of any village, town or city, hitherto ordinarily used for agricultural purposes only, with respect to which a summary settlement has been made between Government and the holder under the provisions of any law for the time being in force, be appropriated to any other purposes, it shall be liable to payment of one-eighth of the rate fixed for unalienated land used for similar purposes in the same locality, in addition to the quit-rent payable under the terms of such summary settlement.

Limitation of certain suits.

[2]135. Any suit instituted in a Civil Court to set aside any order passed by the Collector under section 37 or 129, in respect of any land situated within the site of a village, town or city, shall be dismissed, although limitation has not been set up as a defence, if it has not been instituted within one year from the date of the order.

CHAPTER XI.

OF THE REALIZATION OF THE LAND-REVENUE AND OTHER REVENUE-DEMANDS.

Responsibility for Land-revenue.

Primary responsibility.

[3]136. The registered occupant shall be primarily responsible to Govern-

[1] The words "provided that in any such town or city no survey-fee shall be leviable when a fee has already been paid by a landholder for a sanad obtained by him under section 10 of the said Act" were repealed by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

[2] As to the local repeal of ss. 133 to 135, *see* para. 4 of the third foot note on p. 631, *supra*.

[3] As to the local modification of s. 136, *see* para. 3 of the third foot-note on p. 631, *supra*, and as to the local repeal of that section, *see* para. 4 of the same foot-note.

ment for the land-revenue of unalienated land, and the superior holder shall be primarily responsible to Government for the land-revenue of alienated land.

Recovery of land-revenue if person primarily responsible fails to pay it.

On failure of the person primarily responsible to Government for the land-revenue to pay the same according to the rules legally prescribed in that behalf, it may be recovered from the co-occupant of unalienated land or the co-sharer of alienated land, or in either case from the inferior holder or person in actual occupation of the land.

Credit allowed to inferior holder for recoveries made from him.

When land-revenue is recovered from any such co-occupant, co-sharer, inferior holder or other person, he shall be allowed credit for all payments which he may have made to the registered occupant or superior holder, or to his landlord, at or after the prescribed or usual times of such payments, and he shall be entitled to credit in account with the registered occupant or superior holder or with his landlord for the amount recovered from him.

Priority of Government Claim for Land-revenue.

Claims of Government to have precedence over all others.

137. The claim of Government to any moneys recoverable under the provisions of this Chapter shall have precedence over any other debt, demand or claims whatsoever, whether in respect of mortgage, judgment-decree, execution or attachment, or otherwise howsoever, against any land or the holder thereof.

Liability of crop for revenue of land.

138. In all cases the land-revenue for the current year, of land used for agricultural purposes, if not otherwise discharged, shall be recoverable, in preference to all other claims, from the crop of the land subject to the same.

Land-revenue when leviable.

Land-revenue may be levied at any time during the revenue-year.

139. The land-revenue shall be leviable on or at any time after the first day of the revenue-year for which it is due; but except when precautionary measures are deemed necessary under the provisions of sections 140 to 144, payment will be required only on the dates to be fixed under the provisions hereinafter contained.

Precautionary Measures for the Security of the Land-revenue.

Removal of crop which has been sold, etc., may be prevented until revenue paid.

140. When the crop of any land or any portion of the same is sold, mortgaged or otherwise disposed of, whether by order of a Civil Court or other public authority or by private agreement, the Collector may prevent its being removed from the land until the current year's revenue of the said land has been paid, whether the date fixed for the payment of the same, under the provisions hereinafter contained, has yet arrived or not.

But in no case shall a crop, or any portion of the same, which has been sold, mortgaged or otherwise disposed of, be detained on account of more than one year's revenue.

To secure land-revenue Collector may prevent reaping of crop, or

141. It shall be lawful for the Collector, in order to secure the payment of the land-revenue by enforcement of the lien of Government on the crop—

(*a*) to require that the crop growing on any land liable to the payment of land-revenue shall not be reaped until a notice in writing has first been given to himself or to some other officer to be named by him in this behalf, and such notice has been returned endorsed with an acknowledgment of its receipt;

removal thereof, or

(*b*) to direct that no such crop shall be removed from the land on which it has been reaped, or from any place in which it may have been deposited, without the written permission of himself or of some other officer as aforesaid;

place watchmen over it.

(*c*) to cause watchmen to be placed over any such crop to prevent the unlawful reaping or removal of the same, and to realize the amount required for the remuneration of the said watchmen, at such rate not exceeding the rate of pay received by the peons on his establishment as he may deem fit, as an arrear of land-revenue due in respect of the land to which such crop belongs.

Collector's orders under last section how made known.

142. The Collector's orders under either clause (*a*) or clause (*b*) of the last preceding section may be issued generally to all the holders of land paying revenue to Government in a village, or to individual holders merely.

If the order be general, it shall be made known by public proclamation to be made by beat of drum in the village and by affixing a copy of the order in the chaurí or some other public building in the village.

If it be to individual holders, a notice thereof shall be served on each holder concerned.

Penalty for disobedience of order.

Any person who shall disobey any such order after the same has been so proclaimed, or a notice thereof has been served upon him, or who shall, within the meaning of the [1] Indian Penal Code abet the disobedience of any such order, shall be liable, on conviction after a summary inquiry by the Collector, to a fine not exceeding double the amount of the land-revenue due on the land to which the crop belongs in respect of which the offence is committed. XLV of 1860.

Reaping, etc. not to be

143. The Collector shall not defer the reaping of the crop, nor prolong its

[1] *See* the reprint as modified up to 1st April, 1903.

deposit, unduly, so as to damage the produce; and, if within two months after the crop has been deposited the revenue due has not been discharged, he shall either release the crop and proceed to realize the revenue in any other manner authorized by this Chapter, or take such portion thereof as he may deem fit, for sale under the provisions of this Chapter applicable to sales of moveable property in realization of the revenue due and of all legal costs, and release the rest.

unduly deferred. Crop when to be released.

144. If owing to disputes amongst the sharers, or for other cause, the Collector shall deem that there is reason to apprehend that the land-revenue payable in respect of any holding consisting of an entire village or of a share of a village will not be paid as it falls due, he may cause the village or share of a village to be attached and taken under the management of himself or any agent whom he appoints for that purpose.

Temporary attachment and management of village or share of village.

The provisions of section 160 shall apply to any village or share of a village so attached, and all surplus profits of the land attached, beyond the cost of such attachment and management, including the payment of the land-revenue and the cost of the introduction of a revenue-survey, if the same be introduced under the provisions of section 111, shall be kept in deposit for the eventual benefit of the person or persons entitled to the same, or paid to the said person or persons from time to time as the Collector [1] * * * * * may direct.

Powers of manager, and disposal of surplus profits.

145. The precautionary measures authorized by the last five sections shall be relinquished if the person primarily responsible for the payment of revenue or any person who would be responsible for the same if default were made by the person primarily responsible, shall pay the costs, if any, lawfully incurred by the Collector up to the time of such relinquishment, and shall furnish security satisfactory to the Collector for the payment of the revenue, at the time at which, or in the instalments, if any, in which, it is payable under the provisions hereinafter contained.

Precautionary measures to be relinquished on security being furnished.

Regulation of Payment of Land-revenue.

146. Land-revenue, except when it is recovered under the provisions of the foregoing sections 140 to 144, shall be payable at such times, in such instalments, to such persons and at such places, as may from time to time be determined by the orders of Government.

Government to determine dates, etc., on which land revenue shall be payable.

[1] The words "subject to the orders of the Commissioner" were repealed by s. 2 (*2*) of the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905).

Defaulters.

Arrear. Defaulters.

[1] **147.** Any sum not so paid becomes thereupon an arrear of land-revenue and the persons responsible for it, whether under the provisions of section 136 or of any other section, become defaulters.

Liabilities incurred by default.

148. If any instalment of land-revenue be not fully paid within the prescribed time, it shall be lawful for the Collector to proceed to levy at once the entire balance of land-revenue due by the defaulter for the current year, in addition to such charge as a penalty or by way of interest as may be authorized according to a scale to be fixed from time to time, under the orders of the Governor in Council.

Certified account to be evidence as to arrears.

149. A statement of account, certified by the Collector or by an Assistant or Deputy Collector, shall, for the purposes of this Chapter, be conclusive evidence of the existence of the arrear of the amount of land-revenue due and of the person who is the defaulter.

Collectors may realize each other's demands.

On receipt of such certified statement, it shall be lawful for the Collector of one district to proceed to recover the demands of the Collector of any other district under the provisions of this Chapter as if the demand arose in his own district.

A similar statement of account, certified by the Collector of Bombay, may be proceeded upon as if certified by the Collector of a district under this Act.

Recovery of Arrears.

Process for recovery of arrears.

150. An arrear of land-revenue may be recovered by the following processes :—

(*a*) by serving a written notice of demand on the defaulter, under section 152 ;

[2](*b*) by forfeiture of the occupancy or alienated holding in respect of which the arrear is due, under section 153 ;

(*c*) by distraint and sale of the defaulter's moveable property, under section 154;

(*d*) by sale of the defaulter's immoveable property, under section 155 ;

(*e*) by arrest and imprisonment of the defaulter, under sections 157 and 158;

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[1] As to the local modification of s. 147, *see* para. 4 of the third footnote on p. 631, *supra*.
[2] As to the local repeal of s. 150, cl. (*b*), *see* para. 3 of the third footnote on p. 631, *supra*.

[1] (*f*) in the case of alienated holdings consisting of entire villages, or shares of villages, by attachment of the said villages or shares of villages, under sections 159 to 163.

151. The said processes may be employed for the recovery of arrears of former years as well as of the current year, but the preferences given by sections 137 and 138 shall apply only to demands for the current year: Revenue-demands of former years how recoverable.

Provided that any process commenced in the current year shall be entitled to the said preferences, notwithstanding that it may not be fully executed within that year. Proviso.

Notice of Demand.

152. A notice of demand may be issued on or after the day following that on which the arrear accrues. When notice of demand may issue.

The Commissioner may from time to time frame rules for the issue of such notices, and with the sanction of the Governor in Council shall fix the costs recoverable from the defaulter as an arrear of revenue, and direct by what officer such notices shall be issued.

Forfeiture of Occupancy [2] or alienated Holding.

[3] **153.** The Collector may declare the [2] occupancy or alienated holding in respect of which an arrear of land-revenue is due to be forfeited to Government, and sell or otherwise dispose of the same under the provisions of sections 56 and 57, and credit the proceeds, if any, to the defaulter's accounts. Occupancy or alienated holding for which arrear is due may be forfeited.

[4] Provided that the Collector shall not declare any such [2] occupancy or alienated holding to be forfeited— Proviso.

(*a*) unless previously thereto he shall have issued a proclamation and written notices of the intended declaration in the manner prescribed by sections 165 and 166 for sales of immoveable property, and

(*b*) until after the expiration of at least fifteen days from the latest date on which any of the said notices shall have been affixed as required by section 166.

154. The Collector may also cause the defaulter's moveable property to be distrained and sold. Distraint and sale of defaulter's moveable property.

[1] As to the local modification of s. 150, cl. (*f*), *see* paras. 3 and 4 of the third footnote on p. 631, *supra*.

[2] As to the local modification of the word "occupancy", *see* para. 4 of the third footnote on p. 631, *supra*.

[3] As to the local repeal of s. 153, *see* para. 3 of the third footnote on p. 631, *supra*.

[4] This proviso to s. 153 was added by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 16, Vol. IV of this Code.

By whom to be made.

Such distraints shall be made by such officers or class of officers as the Commissioner under the orders of Government may from time to time direct.

Sale of defaulter's immoveable property.

155. The Collector may also cause the right, title and interest of the defaulter in any immoveable property, other than the land on which the arrear is due to be sold.

Exemption from distraint and sale.

156. All such property as is by the [1] Code of Civil Procedure exempted from attachment or sale in execution of a decree shall also be exempt from distraint or sale under either of the last two preceding sections.

The Collector's decision as to what property is so entitled to exemption shall be conclusive.

Arrest and Imprisonment.

Arrest and detention of defaulter.

157. At any time after an arrear becomes due, the defaulter may be arrested and detained in custody for ten days in the office of the Collector or of a Mámlatdár or Mahálkari, unless the revenue due, together with the penalty or interest and the costs of arrest and of notice of demand, if any, have issued, and the cost of his subsistence during detention is sooner paid.

Imprisonment in civil jail.

If, on the expiry of ten days, the amount due by the defaulter is not paid, then, or if the Collector deem fit on any earlier day, he may be sent by the Collector with a warrant, in the form of Schedule C, for imprisonment in the civil jail of the district:

Limit to detention of defaulters.

Provided that no defaulter shall be detained in imprisonment for a longer period than the time limited by law in the case of the execution of a decree of a Civil Court for a debt equal in amount to the arrear of revenue due by such defaulter.

Power to declare by whom power of arrest to be exercised.

158. The Commissioner may, with the sanction of the Governor in Council, from time to time declare by what officers, or class of officers, the powers of arrest conferred by section 157 may be exercised, and also fix the cost of arrest and the amount of subsistence-money to be paid by Government to any defaulter under detention or imprisonment.

Attachment of Villages.

Power to attach defaulter's village, and take it under management.

159. If the holding in respect of which an arrear is due consists of an entire village or of a share of a village, and the adoption of any of the other processes before specified is deemed inexpedient, the Collector may, with the previous sanction of the Commissioner, cause such village or share of a village

[1] *See* now the Code of Civil Procedure (Act 14 of 1882), as modified up to 1st December, 1899.

to be attached and taken under the management of himself or any agent whom he appoints for that purpose.

Lands of such village to revert free of incumbrances.

[1] **160.** The lands of any village or share of a village so attached shall revert to Government unaffected by the acts of the superior holder or of any of the sharers, or by any charges or liabilities subsisting against such lands, or against such superior holder or sharers as are interested therein, so far as the public revenue is concerned, but without prejudice in other respects to the rights of individuals;

Powers of manager.

and the Collect or or the agent so appointed shall be entitled to manage the lands attached, and to receive all rents and profits accruing therefrom to the exclusion of the superior holder or any of the sharers thereof, until the Collector restores the said superior holder to the management thereof.

Application of surplus-profits.

161. All surplus-profits of the lands attached, beyond the cost of such attachment and management, including the payment of the current revenue and the cost of the introduction of a revenue-survey, if the same be introduced under the provisions of section 111, [2] * * * shall be applied in defraying the said arrear.

Restoration of village so attached.

[3] **162.** The village or share of a village so attached shall be released from attachment and the management thereof shall be restored to the superior holder on the said superior holder's making an application to the Collector for that purpose at any time within twelve years from the first of August next after the attachment—

if at the time that such application is made it shall appear that the arrear has been liquidated;

or if the said superior holder shall be willing to pay the balance, if any, still due by him, and shall do so within such period as the Collector may prescribe in that behalf.

Disposal of surplus-receipts.

The Collector shall make over to the superior holder the surplus-receipts, if any, which have accrued in the year in which his application for restoration of the village or share of a village is made after defraying all arrears and costs, but such surplus-receipts, if any, of previous years shall be at the disposal of Government.

Village, etc.,

[4] **163.** If no application be made for the restoration of a village or portion

[1] As to the local modification of s. 160, *see* para. 4 of the third footnote on p. 631, *supra*.

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[3] As to the local modification of s. 162, *see* paras. 3 and 4 of the third footnote on p. 631, *supra*.

[4] As to the local repeal of s. 163, *see* para. 4 of the third footnote on p. 631, *supra*.

to vest in Government, if not redeemed within twelve years.

of a village so attached within the said period of twelve years, or if, after such application has been made, the superior holder shall fail to pay the balance, if any, still due by him within the period prescribed by the Collector in this behalf, the said village or portion of a village shall thenceforward vest in Government free from all incumbrances created by the superior holder or any of the sharers or any of his or their predecessors in title, or in anywise subsisting as against such superior holder or any of the sharers, but without prejudice to the rights of the actual occupants of the soil.

Stay of Proceedings.

Processes to be stayed on security being given;

164. Any defaulter detained in custody or imprisoned shall forthwith be set at liberty, and the execution of any process shall, at any time, be stayed, on the defaulter's giving before the Collector or other person nominated by him for the purpose, or if the defaulter is in jail, before the officer in charge of such jail, security in the form of Schedule D, satisfactory to the Collector or to such other person or officer.

or an amount demanded being paid under protest.

And any person against whom proceedings are taken under this Chapter may pay the amount claimed under protest to the officer taking such proceedings, and upon such payment the proceedings shall be stayed.

Procedure in respect of Sales.

Procedure in effecting sales.

165. When any sale of either moveable or immoveable property is ordered under the provisions of this Chapter, the Collector shall issue a proclamation, in the vernacular language of the district, of the intended sale, specifying the time and place of sale, and, in the case of moveable property, whether the sale is subject to confirmation or not, and, when land paying revenue to Government is to be sold, the revenue assessed upon it, together with any other particulars he may think necessary.

Proclamation of sales.

Such proclamation shall be made by beat of drum at the head-quarters of the táluqá, and in the village in which the immoveable property is situate, if the sale be of immoveable property; if the sale be of moveable property, the proclamation shall be made in the village in which such property was seized, and in such other places as the Collector may direct.

Notification of sales.

166. A written notice of the intended sale of immoveable property, and of the time and place thereof, shall be affixed in each of the following places, namely, the office of the Collector of the district, the office of the Mámlatdár or Mahálkari of the táluqá or mahál in which the immoveable property is situate, the chauri or some other public building in the village in which it is situate, and the defaulter's dwelling place.

In the case of moveable property, the written notice shall be affixed in the Mámlatdár's or Mahálkari's office, and in the chaurí or some other public building in the village in which such property was seized.

The Collector may also cause notice of any sale, whether of moveable or immoveable property, to be published in any other manner that he may deem fit.

Sale by whom to be made.

167. Sales shall be made by auction by such persons as the Collector may direct.

Time when sale may be made.

No such sale shall take place on a Sunday or other general holiday recognized by Government, nor until after the expiration of at least thirty days in the case of immoveable property, or seven days in the case of moveable property, from the latest date on which any of the said notices shall have been affixed as required by the last preceding section.

Postponement of sale

The sale may from time to time be postponed for any sufficient reason.

Sale of perishable articles.

168. Nothing in the last three sections applies to the sale of perishable articles. Such articles shall be sold by auction with the least possible delay in accordance with such orders as may from time to time be made by the Collector either generally or specially in that behalf.

When sale may be stayed.

169. If the defaulter, or any person on his behalf, pay the arrear in respect of which the property is to be sold and all other charges legally due by him at any time before the day fixed for the sale to the person appointed under section 146 to receive payment of the land-revenue due, or to the officer appointed to conduct the sale, or if he furnish security under section 164, the sale shall be stayed.

Sales of moveable property when liable to confirmation.

170. Sales of perishable articles shall be at once finally concluded by the officer conducting such sales. All other sales of moveable property shall be finally concluded by the officer conducting such sales, or shall be subject to confirmation, as may be directed in orders to be made by the Collector either generally or specially in that behalf.

In the case of sales made subject to confirmation, the Collector shall direct by whom such sales may be confirmed.

Mode of payment for moveable property when sale is concluded at once.

171. When the sale is finally concluded by the officer conducting the same, the price of every lot shall be paid for at the time of sale, or as soon after as the said officer shall direct, and in default of such payment the property shall forthwith be again put up and sold.

On payment of the purchase-money, the officer holding the sale shall grant a receipt for the same, and the sale shall become absolute as against all persons whomsoever.

Payment when sale is subject to confirmation.

172. When the sale is subject to confirmation, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold.

The full amount of purchase-money shall be paid by the purchaser before sunset of the day after he is informed of the sale having been confirmed, or, if the said day be a Sunday or other authorized holiday, then before sunset of the first office-day after such day.

On payment of such full amount of the purchase-money, the purchaser shall be granted a receipt for the same, and the sale shall become absolute as against all persons whomsoever.

Deposit by purchaser in case of sale of immoveable property.

173. In all cases of sale of immoveable property, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold.

Purchase-money when to be paid.

174. The full amount of purchase-money shall be paid by the purchaser before sunset of the fifteenth day from that on which the sale of the immoveable property took place, or if the said fifteenth day be a Sunday or other authorized holiday, then before sunset of the first office-day after such fifteenth day.

Effect of default.

175. In default of payment within the prescribed period of the full amount of purchase-money, whether of moveable or immoveable property, the deposit, after defraying thereout the expenses of the sale, shall be forfeited to Government, and the property shall be sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may be subsequently sold.

Liability of purchaser for loss by re-sale.

176. If the proceeds of the sale which is eventually made be less than the price bid by such defaulting purchaser, the difference shall be recoverable from him by the Collector as an arrear of land-revenue.

Notification before re-sale.

177. Every re-sale of property in default of payment of the purchase-money, or after postponement of the first sale, shall, except when such re-sale takes place forthwith, be made after the issue of a fresh notice in the manner prescribed for original sales.

Application to set aside sale.

178. At any time within thirty days from the date of the sale of immoveable property application may be made to the Collector to set aside the sale on the ground of some material irregularity or mistake, or fraud, in publishing or conducting it;

but, except as otherwise is provided in the next following section, no sale shall be set aside on the ground of any such irregularity or mistake, unless the applicant proves to the satisfaction of the Collector that he has sustained substantial injury by reason thereof.

If the application be allowed, the Collector shall set aside the sale, and direct a fresh one.

Order confirming or setting aside sale.

179. On the expiration of thirty days from the date of the sale, if no such application as is mentioned in the last preceding section has been made, or if such application has been made and rejected, the Collector shall make an order confirming the sale:

Provided that, if he shall have reason to think that the sale ought to be set aside notwithstanding that no such application has been made, or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reasons in writing, set aside the sale.

Refund of deposit or purchase-money when sale set aside.

180. Whenever the sale of any property is not confirmed, or is set aside, the purchaser shall be entitled to receive back his deposit or his purchase-money, as the case may be.

On confirmation of sale, purchaser to be put in possession.

Certificate of purchase.

181. After a sale of any [1] occupancy or alienated holding has been confirmed in manner aforesaid, the Collector shall put the person declared to be the purchaser into possession of the land included in such [1] occupancy or alienated holding, and shall cause his name to be entered in the revenue-records as [1] occupant or holder in lieu of that of the defaulter, and shall grant him a certificate to the effect that he has purchased the [1] occupancy or alienated holding to which the certificate refers.

Bar of suit against certified purchaser.

182. The certificate shall state the name of the person declared at the time of sale to be the actual purchaser; and any suit brought in a Civil Court against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed.

Application of proceeds of sale.

183. When any sale of moveable property under this Chapter has become absolute, and when any sale of immoveable property has been confirmed, the proceeds of the sale shall be applied to defraying the expenses of the sale and to the payment of any arrears due by the defaulter at the date of the confirmation of such sale, and recoverable as an arrear of land-revenue;

[1] As to the local modification of the words "occupancy" and "occupant", *see* para. 4 of the third foot-note on p. 631, *supra*.

and the surplus (if any) shall be paid to the person whose property has been sold.

Expenses of sale how calculated.

The expenses of the sale shall be estimated at such rates and according to such rules as may from time to time be sanctioned by the Commissioner under the orders of Government.

Payment of surplus to creditors.

184. The said surplus shall not, except under an order of a Civil Court, be payable to any creditor of the person whose property has been sold.

Liability of purchaser for revenue.

185. The person named in the certificate of title as purchaser of any land shall be liable for all instalments of land-revenue becoming due in respect of such land subsequently to the date of the sale.

Claims to attached moveable property how disposed of.

186. If any claim shall be set up by a third person to moveable property attached under the provisions of this Chapter, the Collector shall admit or reject his claim on a summary inquiry held after reasonable notice.

If the claim be admitted wholly or partly, the property shall be dealt with accordingly.

Except in so far as it is admitted, the property shall be sold and the title of the purchaser shall be good for all purposes, and the proceeds shall be disposable as hereinbefore directed.

Application of the Provisions of this Chapter.

What moneys leviable under provisions of Chapter.

187. All sums due on account of land-revenue, all quit-rents, nazranas, succession-duties, transfer-duties and forfeitures, and all cesses, profits from land, emoluments, fees, charges, penalties, fines and costs payable or leviable under this Act or under any Act or Regulation hereby repealed, or under any Act for the time being in force relating to land-revenue;

and all moneys due by any contractor for the farm of customs-duties, or of any other duty or tax, or of any other item of revenue whatsoever, and all specific pecuniary penalties to which any such contractor renders himself liable under the terms of his agreement,

and also all sums declared by this or by any other Act or Regulation at the time being in force [1] [or by any contract with the Secretary of State for India in Council] to be leviable as an assessment, or as a revenue-demand, or as an arrear of land-revenue,

shall be levied under the foregoing provisions of this Chapter.

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[1] These words were inserted by s. 2 (*1*) of the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), Vol. IV of this Code.

And all persons who may have become sureties under any of the provisions of this Act or of any Act or Regulation hereby repealed, or for any such contractor as aforesaid for any sum of money, shall, on failure to pay the amount or any portion thereof for which they may have become liable under the terms of their security-bond, be liable to be proceeded against under the provisions of this Chapter as revenue-defaulters. Sureties liable as revenue-defaulters.

And, in the event of the resumption of any such farm as is aforesaid, no person shall be entitled to credit for any payments which he may have made to the contractor in anticipation. On resumption of farm, no payments to contractor in advance admitted.

CHAPTER XII.

Procedure of Revenue-officers.

188. In all official acts and proceedings a Revenue-officer shall, in the absence of any express provision of law to the contrary, be subject as to the place, time and manner of performing his duties to the direction and control of the officer to whom he is subordinate. Subordination of Revenue-officers.

189. Every Revenue-officer not lower in rank than a Mámlátdár's first kárkun, or an Assistant Superintendent of Survey, in their respective departments, shall have power to summon any person whose attendance he considers necessary either to be examined as a party or to give evidence as a witness, or to produce documents for the purposes of any inquiry which such officer is legally empowered to make. Power to summon persons to give evidence and produce documents.

A summons to produce documents may be for the production of certain specified documents, or for the production of all documents of a certain description in the possession of the person summoned.

All persons so summoned shall be bound to attend, either in person or by an authorized agent, as such officer may direct: Provided that exemptions under sections 640 and 641 of the[1] Code of Civil Procedure shall be applicable to requisitions for attendance under this section;

and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements,

and to produce such documents and other things as may be required.

190. Every summons shall be in writing, in duplicate, and shall state the purpose for which it is issued, and shall be signed by the officer issuing it, and if he have a seal shall also bear his seal; Summons to be in writing, signed and sealed;

[1] *See* now ss. 640 and 641 of the Code of Civil Procedure (Act 14 of 1882), as modified up to 1st December, 1899.

how to be served.

and shall be served by tendering or delivering a copy of it to the person summoned, or, if he cannot be found, by affixing a copy of it to some conspicuous part of his usual residence.

Service in district other than that of issuer.

If his usual residence be in another district, the summons may be sent by post to the Collector of that district, who shall cause it to be served in accordance with the preceding clause of this section.

Mode of serving notices.

191. Every notice under this Act, unless it is otherwise expressly provided, shall be served either by tendering or delivering a copy thereof to the person on whom it is to be served or to his agent, if he have any;

or by affixing a copy thereof to some conspicuous place on the land, if any, to which such notice refers.

Notice not void for error.

No such notice shall be deemed void on account of any error in the name or designation of any person referred to therein, unless when such error has produced substantial injustice.

Procedure for procuring attendance of witnesses.[1]

192. In any formal or summary inquiry, if any party desires the attendance of witnesses, he shall follow the procedure prescribed by the [1] Code of Civil Procedure, section 160.

Formal Inquiry.

Mode of taking evidence in formal inquiries.

193. In all formal inquiries the evidence shall be taken down in full, in writing, in the language in ordinary use in the district, by, or in the presence and hearing and under the personal superintendence and direction of, the officer making the investigation or inquiry, and shall be signed by him.

In cases in which the evidence is not taken down in full in writing by the officer making the inquiry, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by such officer with his own hand, and shall form part of the record.

If such officer is prevented from making a memorandum as above required, he shall record the reason of his inability to do so.

Taking evidence given in English. Translation to be on record.

When the evidence is given in English, such officer may take it down in that language with his own hand, and an authenticated translation of the same in the language in ordinary use in the district shall be made and shall form part of the record.

Writing and explanation of decisions.

194. Every decision, after a formal inquiry, shall be written by the officer passing the same in his own hand-writing, and shall contain a full statement of the grounds on which it is passed.

[1] *See* now the Code of Civil Procedure (Act 14 of 1882), as modified up to 1st December, 1899.

Summary Inquiry.

Summary inquiries how conducted.

195. In summary inquiries the presiding officer shall himself, as any such inquiry proceeds, record a minute of the proceedings in his own hand in English or in the language of the district, embracing the material averments made by the parties interested, the material parts of the evidence, the decision, and the reasons for the same:

Provided that it shall at any time be lawful for such officer to conduct an inquiry directed by this Act to be summary under all or any of the rules applicable to a formal inquiry, if he deem fit.

Formal and summary inquiries to be deemed judicial proceedings.

196. A formal or summary inquiry under this Act shall be deemed to be a "judicial proceeding" within the meaning of sections 193, 219 and 228 of [1] the Indian Penal Code, and the office of any authority holding a formal or summary inquiry shall be deemed a Civil Court for the purposes of such inquiry.

XLV of 1860.

Hearing and decision. Notice to parties.

Every hearing and decision, whether in a formal or summary inquiry, shall be in public, and the parties or their authorized agents shall have due notice to attend.

Ordinary inquiries how conducted.

197. An inquiry which this Act does not require to be either formal or summary, or which any Revenue-officer may on any occasion deem to be necessary to make, in the execution of his lawful duties, shall be conducted according to such rules applicable thereto, whether general or special, as may have been prescribed by the Governor in Council, or an authority superior to the officer conducting such inquiry, and, except in so far as controlled by such rules, according to the discretion of the officer in such way as may seem best calculated for the ascertainment of all essential facts and the furtherance of the public good.

Copies and translations, etc., how obtained.

198. In all cases in which a formal or summary inquiry is made, authenticated copies and translations of decisions, orders and the reasons therefor, and of exhibits, shall be furnished to the parties, and original documents used as evidence shall be restored to the persons who produced them, or to persons claiming under them, on due application being made for the same, subject to such charges for copying, etc., as may, from time to time, be authorized by Government.

Arrest of defaulter to be made upon warrant.

199. Whenever it is provided by this Act that a defaulter or any other person may be arrested, such arrest shall be made upon a warrant issued by any officer competent to direct such person's arrest.

[1] *See* the revised edition as modified up to 1st April, 1903.

Power of Revenue-officer to enter upon lands or premises for purposes of measurement, etc.

200. It shall be lawful for any Revenue-officer at any time, and from time to time, to enter, when necessary, for the purposes of measurement, fixing or inspecting boundaries, classification of soil, or assessment, or for any other purpose connected with the lawful exercise of his office under the provisions of this Act, or of any other law for the time being in force relating to land-revenue, any lands or premises, whether belonging to Government or to private individuals, and whether fully assessed to the land-revenue or partially or wholly exempt from the same:

Proviso.

Provided always that no building used as a human dwelling shall be entered, unless with the consent of the occupier thereof without a notice having been served at the said building not less than seven days before such entry: and provided also that, in the cases of buildings of all descriptions, due regard shall be paid to the social and religious prejudices of the occupiers.

Power to determine language of district.

201. The Governor in Council may declare what shall, for the purposes of this Act, be deemed to be the language in ordinary use in any district.

Mode of evicting person wrongfully in possession of land.

202. Whenever it is provided by this or by any other Act for the time being in force that the Collector may or shall evict any person wrongfully in possession of land, such eviction shall be made in the following manner, namely:—

by serving a notice on the person or persons in possession, requiring them within such time as may appear reasonable after receipt of the said notice to vacate the land, and

if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same, and

if the officer removing any such person shall be resisted or obstructed by any person, the Collector shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause, and that such resistance and obstruction still continue, may, without prejudice to any proceedings to which such person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, issue a warrant for the arrest of the said person, and on his appearance commit him to close custody in the office of the Collector or of any Mámlatdár or Mahálkari, or send him with a warrant, in the form of Schedule I, for imprisonment in the civil jail of the district for such period not exceeding thirty days as may be necessary to prevent the continuance of such obstruction or resistance.

CHAPTER XIII.

APPEALS AND REVISION.

Appeal from order passed by Revenue-officer to his superior.

203. In the absence of any express provision of this Act, or of any law for the time being in force to the contrary, an appeal shall lie from any decision or order passed by a Revenue-officer under this Act or any other law for the time being in force, to that officer's immediate superior, whether such decision or order may itself have been passed on appeal from a subordinate officer's decision or order or not.

Appeal to Governor in Council.

204. An appeal shall lie to the Governor in Council from any decision or order passed by a Commissioner or by a Survey Commissioner, except in the case of any decision or order passed by such officer on appeal from a decision or order itself recorded in appeal by any officer subordinate to him.

Limitation of appeals.

[1] **205.** No appeal shall be brought after the expiration of sixty days if the decision or order complained of have been passed by an officer inferior in rank to a Collector or a Superintendent of Survey in their respective departments ; nor after the expiration of ninety days in any other case.

In computing the above periods, the time required to prepare a copy of the decision or order appealed against shall be excluded.

Admission of appeal after period of limitation.

[1] **206.** Any appeal under this Chapter may be admitted after the period of limitation prescribed therefor, when the appellant satisfies the officer or the Governor in Council to whom he appeals that he had sufficient cause for not presenting the appeal within such period.

No appeal shall lie against an order passed under this section admitting an appeal.

Provision where last day for appeal falls on Sunday or holiday.

[1] **207.** Whenever the last day of any period provided in this Chapter for the presentation of an appeal falls on a Sunday or other holiday recognized by Government, the day next following the close of the holiday shall be deemed to be such last day.

What to accompany petition of appeal.

[1] **208.** Every petition of appeal shall be accompanied by the decision or order appealed against or by an authenticated copy of the same.

Powers of appellate authority.

[1] **209.** The appellate authority may either annul, reverse, modify or confirm the decision or order of the subordinate officer appealed against, or he may direct the subordinate officer to make such further investigation or to take such additional evidence as he may think necessary, or he may himself take such additional evidence.

Powers to suspend execu-

[1] **210.** In any case in which an appeal lies, the appellate authority may,

[1] The provisions of ss. 205 to 210 have been declared to apply to all appeals under the Bombay Court of Wards Act, 1905 (Bom. Act 1 of 1905), *see* s. 43 (2) of that Act, Vol. IV. of this Code.

tion of order of subordinate officer.

pending decision of the appeal, direct the execution of the decision or order of the subordinate officer to be suspended.

Power to call for and examine records and proceedings of subordinate officers;

211. The Governor in Council and any Revenue-officer, not inferior in rank to a Collector or a Superintendent of Survey, in their respective departments, may call for and examine the record of any inquiry or the proceedings of any subordinate Revenue-officer, for the purpose of satisfying himself as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such officer.

The following officers may in the same manner call for and examine the proceedings of any officer subordinate to them in any matter in which neither a formal nor a summary inquiry has been held, namely,—an Assistant or Deputy Collector, a Mámlatdár, a Mahálkari, [1] [an] Assistant Superintendent of Survey, and an Assistant Settlement-officer.

and to pass orders thereupon.

If, in any case, it shall appear to the Governor in Council, or to such officer aforesaid, that any decision or order or proceedings so called for should be modified, annulled or reversed, he may pass such order thereon as he deems fit.

Explanation as to decisions or orders expressly made final.

212. Whenever in this Act it is declared that a decision or order shall be final, such expression shall be deemed to mean that no appeal lies from such decision or order.

The Governor in Council alone shall be competent to modify, annul or reverse any such decision or order under the provisions of the last preceding section.

CHAPTER XIV.

MISCELLANEOUS.

Maps, land-registers and village-accounts, etc., open to inspection. Extracts and copies to be given.

213. Subject to such [2] rules and the payment of such fees as the Governor in Council may from time to time prescribe in this behalf, all maps and survey-records, and all village-accounts and land-registers shall be open to the inspection of the public at reasonable hours, and certified extracts from such maps, registers and accounts, or certified copies thereof, shall be given to all persons applying for the same.

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[1] The word "an" was substituted for the word "and" by the Repealing and Amending Act, 1895 (16 of 1895), Vol. I of this Code, p. 204.

[2] For rules as to payment of fees for inspection, *see* Bombay Government Gazette, 1881, p. 792, and *ibid*, 1888, p. 333.

Power to frame rules.

[1] **214.** The Governor in Council may from time to time make, and from time to time vary or rescind, [2] rules or orders not inconsistent with this Act—

(*a*) determining the qualifications to be required of all members of establishments appointed under section 21 ;

(*b*) regulating the power of fining, reducing, suspending, and dismissing Revenue-officers under section 32 ;

(*c*) prescribing the purposes to which land liable to the payment of land-revenue may [3] [or may not] be appropriated under section 48 ;

(*d*) regulating the system and manner of assessing land to the land-revenue under sections 52 and 100 ;

(*e*) for the disposal of forfeited occupancies or alienated holdings under section 56 ;

(*f*) fixing the maximum amount of fine leviable under section 61 when land which has been unauthorizedly occupied is appropriated to any non-agricultural purpose ;

(*g*) for the administration of any survey-settlement [4] [and the maintenance of boundary-marks].

(*h*) prescribing the mode, form and manner in which appeals under Chapter XIII * * * [5] shall be drawn up and presented ;

(*i*) generally [3] [for carrying out the purposes and objects of this Act, and] for the guidance of all persons in matters connected with the enforcement of this Act, or in cases not expressly provided for therein.

Rules or orders made under any of the above clauses (*c*), (*d*), (*e*), (*f*), or (*i*) may be made either generally or in any particular instance.

Rules to be published.

215. All general rules or orders made by the Governor in Council under the last preceding section shall be published, and when published shall, until cancelled or amended, have the force of law.

Power to provide for penalties.

It shall be lawful for the Governor in Council, in making any such general rule, to attach to the breach of it, in addition to any other consequences which would ensue from such breach, punishment, on conviction

[1] As to the local modification of s. 214, *see* para. 4 of the third foot-note on p. 631, *supra*.

[2] For general rules under this section and amendments made thereto from time to time, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, pp. XCIX to CII.

[3] The words within square brackets in clauses (*c*) and (*i*) of s. 214 were inserted by s. 2 (*i*) of the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), Vol. IV of this Code.

[4] These words were inserted in cl. (*g*) of s. 214 by the Bombay Land-revenue Code Amendment Act, 1901 (Bom. Act 6 of 1901), s. 17, Vol. IV of this Code.

[5] The words " of this Act " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

before a Magistrate, not exceeding one month's imprisonment,[1] * * * * or five hundred rupees fine, or both.

Chapters VIII to X how far applicable to alienated villages.

[2] **216.** Save as is otherwise provided in section 111 and hereinafter in this section, the provisions of Chapters VIII to X * * *[3] shall not be applied to any alienated village except for the purposes of fixing the boundaries of any such village, and of determining any disputes relating thereto. But the provisions of the said Chapters shall be applicable to—

(*a*) all unalienated lands situated within the limits of an alienated village ;

(*b*) villages of which a definite share is alienated, but of which the remaining share is unalienated ;

(*c*) alienated villages the holders of which are entitled to a certain amount of the revenue, but of which the excess, if any, above such amount belongs to Government.

But it shall be lawful for the Governor in Council, on an application in writing being made by the holder of any such village to that effect, to authorize the[4] extension of all or any of the provisions of the said Chapters to any such village.

Occupants in alienated villages.

[2] **217.** When a survey-settlement has been introduced, under the provisions of the last section or of any law for the time being in force, into an alienated village, the holders of all lands to which such settlement extends shall have the same rights and be affected by the same responsibilities in respect of the lands in their occupation as occupants in unalienated villages have or are affected by, under the provisions of this Act, and all the provisions of this Act relating to occupants and registered occupants shall be applicable, so far as may be, to them.

Construction of Act.

218. Nothing in this Act, which applies in terms to unalienated land or to the holders of unalienated land only, shall be deemed to affect alienated land, or the rights of holders of alienated land or of Government in respect of any such land, and no presumption shall be deemed to arise either in favour, or to the prejudice, of any holder of alienated land from any provision of this Act in terms relating to unalienated land only.

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[1] The words "of either description, within the meaning of the Indian Penal Code" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] As to the local repeal of ss. 216 and 217, *see* para. 4 of the third foot-note on p. 631, *supra*.

[3] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[4] For Notifications extending Chapters VIII to X or portions thereof to places in the Bombay Presidency, *see* List on pp. 100 to 120 of the Bombay Local Rules and Orders, Ed. 1898, Vol. II.

SCHEDULE A.

(*See section 2.*)

Number and year.	Subject.	Extent of repeal.
	Bombay Regulations.	
IV of 1827 .	Forms of proceeding of the Courts of Law.	Clauses 2 & 3 of section 69.
XVI of 1827 .	Duties and powers of the Collector and subordinate Revenue-officers.	So much as has not already been repealed.
XVII of 1827 .	Assessment and realizations of the Land-revenue.	Ditto.
V of 1830 .	Revenue Commissioners and Sub-Collectors	Ditto.
XV of 1831 .	Punishment of Patels falsifying revenue-records.	Ditto.
II of 1832 .	Realization of Revenue from Farmers .	Ditto.
V of 1833 .	Embezzlement: Hereditary District and Village-officers.	Ditto.
	Acts of the Governor General in Council.	
XVIII of 1838 .	Security	The whole Act.
XIII of 1842 .	Collections of Inamdars' Revenues . .	Ditto.
XVII of 1842 .	Revenue Commissioners	So much as has not already been repealed.
III of 1846 .	Boundary-marks	Ditto.
XII of 1850 .	Public Accountants	The whole Act so far as it applies to Revenue-officers in the Presidency of Bombay.
XXI of 1852 .	Deputy Collectors	So much as has not already been repealed.
	Acts of the Governor of Bombay in Council.	
VII of 1863 .	Summary Settlement	Sections 4 & 5.
I of 1865 .	Survey	The whole Act, except sections 37 & 38.
[1]*	* * * * *	* * *
I of 1868 .	Powers and Duties of Assistant and Deputy Collectors.	The whole Act.
IV of 1868 .	City Surveys.	Ditto.
I of 1875 .	Amendment of (Bombay) Act I of 1865 .	Ditto.

[1] The entry relating to Bombay Act 1 of 1866 was repealed by the Repealing Act, 1895 (16 of 1895), Vol. I of this Code, p. 224.

SCHEDULE B.

FORM OF BOND TO BE REQUIRED UNDER SECTION 23.

WHEREAS I,
inhabitant of
have been appointed to the office of
and have been called upon to furnish security under the provisions of section 23 of the Bombay Land-revenue Code for the due discharge of the trusts of the said office, or of any other office to which I may be hereafter appointed and for the due account of all moneys, papers and other property which shall come into my possession or control by reason of any such office, I hereby bind myself to pay to the Secretary of State for India in Council the amount of any loss or defalcation in my accounts, and to deliver up any papers or other property, within such time, and to such person, as shall be demanded by the person at the head of the office to which I belong, such demand to be in writing and to be left at my office or place of residence, and in case of my making default therein, I bind myself to forfeit to the Secretary of State for India in Council the sum of rupees.

[1] [Provided always that nothing herein contained nor the security hereby given shall be deemed to limit my liability in respect of the matters aforesaid to the forfeiture of the said sum of rupees only, and that should that sum be insufficient to recoup the Secretary of State for India in Council in full for any loss or damage sustained by him in respect of the matters aforesaid, I agree to pay to him on demand such further sum as shall be deemed by the person at the head of the said office necessary in addition to the said sum to cover such loss or damage as aforesaid.]

Dated

(*Signature.*)

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

WE,
hereby declare ourselves sureties for the abovesaid
that he shall do and perform all that he has above undertaken to do and perform, and in case of his making default therein, we hereby bind ourselves to forfeit to the Secretary of State for India in Council [2] [the sum of rupees, in which the abovesaid has bound himself, or such smaller] sum as shall be deemed sufficient by the to cover any loss or damage which the Government may sustain by reason of such default.

Dated

(*Signature.*)

[1] This proviso was inserted by the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), Vol. IV of this Code.

[2] These words were substituted for the word "such" by the Bombay Repealing and Amending Act, 1905 (Bom. Act 4 of 1905), Vol. IV of this Code.

SCHEDULE C.

FORM OF WARRANT TO BE ISSUED BY THE COLLECTOR UNDER SECTION 25 OR 157.

Seal.

To

THE OFFICER IN CHARGE OF THE CIVIL JAIL AT

WHEREAS *A. B.* of was, on the day of 187 , ordered by to (*here state the substance of the demand made*); and whereas the said *A. B.* has neglected to comply with the said order, and it has therefore been directed, under the provisions of section of the Bombay Land-revenue Code, that he be imprisoned in the civil jail until he obey the said order or until he obtain his discharge under the provisions of section 25 or 28 (*or* section 157 or 164, *as the case may be*) of the said Code; you are hereby required to receive the said *A. B.* into the jail under your charge and to carry the aforesaid order into execution according to law.

Dated this day of 187

(*Signature of Collector.*)

SCHEDULE D.

FORM OF BOND TO BE REQUIRED UNDER SECTION 28 OR 164.

WHEREAS I, have been ordered by to (*here state the nature of the demand*), and whereas I dispute the right of the said to make the said order, I hereby bind myself to file a suit within fifteen days from the date of this bond in the District Court of to contest the justice of the demand, and do agree that, in the event of a decree being passed against me, I will fulfil the same and will pay all amounts, including costs and interests, that may be due by me, or that, if I fail to institute a suit as aforesaid

(*Schedule E.*)

I will, when required, pay the abovementioned amount of rupees (*or* will deliver up the abovementioned papers or property, *as the case may be*), and in the case of my making default therein, I hereby bind myself to forfeit to the Secretary of State for India in Council the sum of rupees.

Dated

(*Signature.*)

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

WE,

hereby declare ourselves securities for the abovesaid that he shall do and perform all that he has above undertaken to do and perform, and in case of his making default therein we hereby bind ourselves to forfeit to the Secretary of State for India in Council the sum of rupees.

Dated

(*Signature.*)

SCHEDULE E.

(*See section 84.*)

I.—FORM OF NOTICE TO BE GIVEN BY LANDLORD TO TENANT TO QUIT.

To *A. B.*

I DO hereby give you notice that I do intend to enter upon, and take possession of, the land (*here give the description*) which you now hold as tenant under me, and you are therefore required to quit and deliver up possession of the same at the end of this current year, terminating on the of 187 .

(*Signed*) *C. D.*

Dated this day of 187 .

II.—FORM OF NOTICE TO BE GIVEN BY TENANT TO LANDLORD OF HIS INTENTION TO QUIT.

To *C. D.*

I DO hereby give you notice that I shall quit and deliver up to you, at the end of this current year, terminating on the of 187 , the land (*here give the description*) which I hold from you.

(*Signed*) *A. B.*

Dated this day of 187

SCHEDULE F.

FORM OF COMMISSION TO BE ISSUED TO A HOLDER OF ALIENATED LANDS OR VILLAGES OR HIS AGENT, UNDER SECTION 89.

Seal.

The Governor in Council of Bombay, by virtue of the powers vested in him by the Bombay Land-revenue Code, is pleased to confer on you (jágirdár, *etc., or* agent, *etc., as the case may be,*) power to in (*or* in respect of) the villages and lands specified in this commission, in the manner prescribed in (*or* in section of the said Code).

The villages and lands over which the power thus conferred upon you extends are as follows:—

(*Here enter the description.*)

The within delegated power is vested in you during the pleasure and subject to the recall of the said Governor in Council.

(*Signed*)

SCHEDULE H.[1]

(*See section 133.*)

FORM OF SANAD FOR BUILDING-SITES.

(*Royal Arms.*)

THE SECRETARY OF STATE IN COUNCIL.

To_____

WHEREAS His Excellency the Governor of Bombay in Council, with a view to the settlement of the land-revenue, and the record and preservation of proprietary and other rights connected with the soil, has, under the provisions of the Bombay Land-revenue Code, directed a survey of the lands within the of , and ordered the necessary inquiries connected therewith to be made, this sanad is issued under section 133 of the said Code to the effect that—

There is a certain plot of ground occupied by you in the division of the of , registered No. , in the map marked sheet , No. , and facing towards the , the road leading from to , containing about square yards, and of the following shape and about the following dimensions :—

You are hereby confirmed in the occupancy of the above-described ground

[1] There is no Schedule G.

exempt from all land-revenue (*or* subject to the payment of ₹ per annum to the land-revenue).

The terms of your tenure are such that your occupancy is both transferable and heritable, and will be continued by the British Government without any objection or question as to title, to whosoever shall from time to time be its lawful holder (subject only to the condition of the payment annually of the above land-revenue according to the provisions of the Bombay Land-revenue Code or of any other law for the time being in force, and to the liability to have the said rate of assessment revised at the expiration of a term of years reckoned from the , and thereafter at successive periods of years in perpetuity, and to the necessity for compliance with the provisions of the law from time to time in force as to the time and manner of payment of the said assessment, and to the liability of forfeiture of the said occupancy and of all rights and interests connected therewith in case of your failure to pay the said assessment as required by law).

This sanad is executed on behalf of the Secretary of State for India in Council by order of the Governor in Council of Bombay, by and under the hand and seal of , this day of one thousand eight hundred and A. D.

(*Signed*)

SCHEDULE I.

FORM OF WARRANT TO BE ISSUED BY THE COLLECTOR UNDER SECTION 202.

Seal.

To

THE OFFICER IN CHARGE OF THE CIVIL JAIL AT

WHEREAS *A. B.* of has resisted (*or* obstructed) *C. D.* in removing *E. F.* (*or* himself, that is, the said *A. B.*) from certain land in the village of , in the táluqá, and whereas it is necessary, in order to prevent the continuance of such obstruction (*or* resistance), to commit the said *A. B.* to close custody. You are hereby required, under the provisions of section 202 of the Bombay Land-revenue Code, to receive the said *A. B.* into the jail under your charge, and there to keep him in safe custody for days.

Dated this day of 187

(*Signature of Collector*).

THE BOMBAY PORT TRUST ACT, 1879.

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BOMBAY ACT No. VI OF 1879 [1].

[*4th September, 1879.*]

An Act to consolidate the immoveable and other property vesting in the Trustees of the Port of Bombay and certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and to vest the control and management of the same in one Public Trust; and for other purposes.

Preamble.

WHEREAS it is expedient that the immoveable and other property vesting in the trustees of the Port of Bombay should be consolidated with certain other property on, or connected with, the foreshore of the Island of Bombay into one estate, and that such consolidated estate should, together with the rights and powers now exercisable by the said trustees, be vested, subject to the provisions hereinafter appearing, in a new trust; It is enacted as follows:—

I.—PRELIMINARY.

Short title.

1. This Act may be called the Bombay Port Trust Act, 1879.

Repeal of Bombay Act I of 1873.

2. From the date [2] which shall be notified by the Governor in Council under section 8, Bombay Act I of 1873 (the Bombay Port Trust Act, 1873), shall be repealed:

Provided that all debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with, or for the trustees appointed under the said Act shall be deemed to have been incurred, entered into, or engaged to be done by, with, or for the Board constituted by this Act;

and all rates and sums of money due to the said trustees shall be deemed to be due to the said Board;

and all suits or other legal proceedings, civil or criminal, instituted, or which might, but for the passing of this Act, have been instituted, by or against the said trustees, may be continued or instituted by or against the said Board.

Interpretation-clause.

3. In this Act, unless there be something repugnant in the subject or context,—

(*1*) the word "rates" includes any toll, due, rent, rate, or charge leviable under section 43:

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1878, Pt. V, p. 126, and *ibid*, 1879, Pt. V, p. 149; for Report of the Select Committee, *see ibid*, 1879, Pt. V, p. 14, and for Proceedings in Council, *see ibid*, 1879, Pt. V, pp. 4, 98, 110 and 151.

[2] The 1st November, 1879—*see* Bombay Government Gazette, 1879, Pt. I, p. 814.

(*2*) "port" means the Port of Bombay within such limits as may, from time to time, be defined by Government for the purposes of this Act, by notification in the *Bombay Government Gazette*, and until a notification is so issued, within such limits as may have been defined by Government under section 73 of the [1] Bombay Port Trust Act, 1873, for the purposes of that Act:

Bom. Act I of 1873.

(*3*) [*Definition of "vessel."*] *Rep. Bom. Act III of 1886, Schedule B*[2].

(*4*) "master", when used in relation to any vessel, means any person having for the time being the charge or control of such vessel:

(*5*) "owner", when used in relation to goods, includes any consignor, consignee, shipper or agent for the sale or custody of such goods: and, when used in relation to any vessel, includes any part-owner, charterer, consignee or mortgagee in possession thereof:

(*6*) "land" includes the bed of the sea below high-water mark:

(*7*) "wharf" includes a bandar and any part of the foreshore used for loading or unloading goods, and any wall enclosing or adjoining the same:

(*8*) "dock" includes basins, locks, cuts, entrances, graving-docks, graving-blocks, inclined planes, patent slips, gridirons, quays, warehouses, and other works and things appertaining to any dock:

(*9*) "pier" includes any stage, stairs, landing-place, hard, jetty, landing-stage, floating barge or pontoon, and any bridges or other works connected therewith:

(*10*) the word "goods" includes wares and merchandise of every description:

(*11*) "immoveable property" includes wharfage-rights and all other rights exercisable on, over, or in respect of any land, wharf, dock, or pier:

[3](*12*) the words "public securities" mean:

(*a*) promissory notes, debentures, stock or other securities of the Government of India;

(*b*) debentures or other securities for money issued by, or on behalf of,—

(*i*) any Municipal body or any Port Trust under the authority of any Act of a legislature established in British India;

(*ii*) the [4] City of Bombay Improvement Trust under the authority of Act IV of 1898.

Bom. Act IV of 1898.

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[1] The Bombay Port Trust Act, 1873 (Bom. Act 1 of 1873) is repealed by s. 2 of this Act.

[2] This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[3] Cl. (*12*) of s. 3 was substituted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 1, Vol. IV of this Code.

The original clause was as follows:—

"the words 'Public Securities' mean securities of the Government of India, Bombay Municipal Debentures and securities and debentures issued under sections 30 and 41, respectively, of this Act."

[4] Vol. IV of this Code.

II.—Of the Board of Trustees.

Constitution of Board.

Act to be carried out by trustees.

4. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitation as are hereinafter contained, be vested in a Board, to be called "the trustees of the Port of Bombay", and such Board, hereinafter referred to as "the Board", shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.

Constitution of Board.

5. The Board shall consist of thirteen members, that is to say, of—

five elective-trustees,

seven nominee-trustees, and

a Chairman;

and not less than three of the trustees shall be natives of India residing in the City of Bombay.

Elective-trustees elected by Bombay Chamber of Commerce;

6. The elective-trustees shall be elected by the members for the time being of the Bombay Chamber of Commerce in such manner as shall, from time to time, be determined at a meeting of the members of the said Chamber convened in accordance with the rules at the time in force in this behalf. The Secretary to the said Chamber shall make a return to the Government of the name of every person so elected by the Chamber, and his return shall be published in the *Bombay Government Gazette*.

or nominated by Government.

In the event of default being made by the Chamber in electing any trustee under the foregoing provisions within the period hereinafter prescribed in this behalf, it shall be lawful for Government by notification in the *Bombay Government Gazette* to nominate a person, and the person so nominated shall be deemed to be a trustee as if he had been duly elected by the Chamber.

Appointments by Government.

7. The nominee-trustees and the Chairman shall be appointed by Government by notification in the *Bombay Government Gazette*.

Commencement of term of office of first trustees.

8. The term of office of the first nominee and elective-trustees shall commence on such date [1] as shall be notified in this behalf by the Governor in Council.

Term of office of nominee and elective-trustees.

9. * * * * *[2] The nominee and elective-trustees shall, unless they become in the meantime disqualified, hold office for a term of two years.

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[1] The 1st November, 1879—*see* Bombay Government Gazette, 1879, Pt. I, p. 814.

[2] The following was repealed by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), Vol. IV of this Code:—

"Three of the first nominee-trustees and three of the first elective-trustees shall, unless they become in the meantime disqualified, hold office up to and inclusive of the 31st day of March next succeeding the date on which their term of office shall commence, the selection of the said six trustees being made by lot at such time and in such manner as the Chairman shall determine. The remaining four of the first nominee-trustees and the remaining two of the first elective-trustees shall hold office until and inclusive of the 31st day of March next following the 31st day of March aforesaid In every other case".

Trustees to be appointed and elected in March.

10. * * *[1] Elective-trustees shall be elected on some day not earlier than the first and not later than the fifteenth day of the month of March next preceding the 1st of April from which their term of office is to commence ; and nominee-trustees shall be appointed on some day in the remainder of the said month of March.

Chairman's tenure of office.

11. The Chairman shall hold office during the pleasure of Government : Provided that he does not in the meantime cease, through disqualification, to be a trustee.

Trustees re-eligible.

12. Any person on ceasing to be a trustee shall, unless disqualified under section 14, be re-eligible.

Casual vacancies.

13. (*1*) Any casual vacancy in the office of a trustee other than the Chairman, occasioned by the death, resignation, or disqualification of such trustee, shall be filled up within one month by Government if the office vacated was that of a nominee-trustee, or by the Chamber of Commerce if it was that of an elective-trustee, in the same manner and subject, so far as may be, to the same provisions as are applicable in the case of original appointments and elections of trustees : Provided that the trustee so chosen shall retain his office so long only as the vacating trustee would have retained the same if such vacancy had not occurred.

Acting trustees.

(*2*) If a trustee departs from Bombay with an intention of being absent for a longer period than three months, or if a trustee shall have been absent for such period, a person shall be elected or appointed as aforesaid to act for such trustee during his absence or until he shall cease to be a trustee, and the person so acting shall be deemed for all the purposes of this Act to be a trustee.

Saving provision for acting appointment when necessary for less than three months.

[2](*3*) Nothing in the last preceding sub-section shall prevent a person being elected or appointed for a shorter period than three months in the place of an absent trustee, on the application of the Board if the absentee be an elective-trustee, or at the discretion of Government if he be a nominee-trustee.

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[1] The following was repealed by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), Vol. IV of this Code :—

> "The first elective-trustees shall be elected on some day not later than a fortnight previous to the date which shall be notified by the Governor in Council under section 8, and the first nominee-trustees shall be appointed on some day during the said fortnight ; in every other case."

[2] Cl. (*3*) of s. 13 was inserted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 2, Vol. IV of this Code.

Disqualifications of Trustees.

Disqualifications for office of trustee.

[1]**14.** (*1*) A person shall be disqualified to be a trustee who—

(*a*) is an uncertificated bankrupt or insolvent ; or

(*b*) has been convicted and sentenced to imprisonment for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such conviction not having been subsequently reversed or quashed ; or

(*c*) holds any office or place of profit under the Board ; or

(*d*) has directly or indirectly, by himself or his partner, any share or interest in any contract, or employment, with, by, or on behalf of, the Board.

Proviso.

(*2*) But a person shall not be so disqualified, or be deemed to have any share or interest in such contract or employment, by reason only of his having a share or interest in—

(*a*) any lease, sale, exchange or purchase of immoveable property, or any agreement for the same ; or

(*b*) any license by the Board, or right by agreement or otherwise with the Board to the sole or preferential use of any railway sidings or any berth for vessels in the docks belonging to the Board ; or

(*c*) any agreement for the loan of money, or any security for the payment of money only ; or

(*d*) any newspaper in which any advertisement relating to the affairs of the Board is inserted ; or

(*e*) any joint-stock company which shall contract with, or be employed by, or on behalf of, the Board ; or

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[1] This section was substituted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 3, Vol. IV of this Code.

The original section was as follows :—

"No person shall be qualified to be a trustee during such time as he

(*a*) is an uncertificated bankrupt or insolvent, or

(*b*) holds any office or place of profit under the Board, or

(*c*) has, directly or indirectly, any share or interest in any work done by order of the Board, or in any contract, or employment with, by, or on behalf of, the Board ; and any trustee who

(*d*) becomes disqualified for any of the aforesaid reasons, or

(*e*) is absent from the meetings of the Board for a period exceeding twelve consecutive months, or, without the permission of the Board, from six consecutive meetings of the Board, or

(*f*) is sentenced to imprisonment,

shall cease to be a trustee, and his office shall thereupon become vacant :

Provided always that no trustee shall vacate his office by reason only of his

(*g*) having a share in any joint stock company which shall contract with, or be employed by, or on behalf of, the Board, or

(*h*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or

(*i*) being interested in any loan of money to the Board."

(*f*) the occasional sale to the Board, to a value not exceeding two thousand rupees in any one official year, of any article in which he trades.

[1]**14A.** Any trustee who— Grounds on which trustees shall vacate office.

(*a*) becomes disqualified for any of the reasons mentioned in the last preceding section; or

(*b*) is absent from the meetings of the Board for a period exceeding twelve consecutive months, or without the permission of the Board from six consecutive ordinary meetings of the Board; or

(*c*) acts in contravention of the provisions of the next succeeding section;

shall cease to be a trustee, and his office shall thereupon become vacant.

[1]**14B.** A trustee shall not at any meeting of the Board or a Committee thereof take part in the discussion of, or vote on any matter in which he has directly or indirectly, by himself or his partner, any share or interest such as is described in section 14, sub-section (*2*), or in which he is interested either professionally on behalf of a client or as agent for any person. Restriction on power of trustees to vote or discuss matters in which they are interested.

Salaries of Trustees.

15. (*1*). The Chairman shall receive such salary as Government shall from time to time determine. Salary of Chairman.

[2](*2*). Every trustee other than the Chairman who shall attend a meeting at which a quorum is present and business is transacted, and which he attends from the beginning to the end thereof, shall be entitled to a fee of— Fees to which trustees other than the Chairman shall be entitled.

(*a*) Rs. 30 for every ordinary meeting of the Board, provided that if such meeting is adjourned or more than one ordinary meeting is held in any one week, no more than Rs. 30 shall be paid to any trustee for his attendance at all such meetings during that one week; For an ordinary meeting of the Board.

(*b*) Rs. 30 for every special meeting of the Board convened under sub-section (*2*) (*b*) of the next succeeding section; For a special meeting of the Board.

(*c*) Rs. 15 for every special meeting of a Committee of which such trustee attending is a member, convened under sub-section (*5*) of the next succeeding section, provided that such special meeting of a Com- For a special meeting of a Committee.

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[1] Ss. 14A and 14B were inserted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 4, Vol. IV of this Code.

[2] Cls. (*2*) and (*3*) of s. 15 were substituted for the original clause (*2*) by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 5, Vol. IV of this Code.
The original clause was as follows:—

"Every trustee other than the Chairman shall be entitled to a fee of thirty rupees for each meeting of the Board at which a quorum is present and business is transacted and which he attends from the beginning to the end thereof: Provided that if more than one such meeting is held in any one week, no more than thirty rupees shall be paid to any trustee for his attendance at all such meetings during that one week."

mittee is not held upon the same day in continuation of or preparatory to an ordinary or special meeting of the Board for which he is entitled to a fee under either of the preceding clauses.

Proviso.

[1](3) The aggregate amount of fees payable to any trustee under the last preceding sub-section in respect of meetings held during any month shall not exceed Rs. 200, or such sum as may be fixed by any bye-law from time to time made in this behalf.

Proceedings of Board.

Provisions as to Board's proceedings.

16. The following provisions shall be observed with respect to the proceedings of the Board, namely :—

Vacancy not to affect proceedings.

(1) during any vacancy in the Board, the continuing trustees may act as if no vacancy had occurred;

Board to arrange for transaction of business;

(2) the Board shall meet together and shall from time to time make such arrangements, not inconsistent with this Act, with respect to the place, day, hour, notice, management and adjournment of such meetings, and generally with respect to the transaction of business, as they think fit, subject to the following conditions, namely :—

to meet once a fortnight; special meetings;

(*a*) that a meeting shall be held once at least in every fortnight;

(*b*) that the Chairman may, whenever he thinks fit and shall, upon the written request of not less than three trustees, call a special meeting;

quorum;

(*c*) that no business shall be transacted at any meeting unless at least five trustees are present from the beginning to the end of such meeting;

presiding at meetings;

(*d*) that every meeting shall be presided over by the Chairman, if he is present at the time appointed for holding the same, and if he is absent by such one of the trustees present as may be chosen by the meeting;

questions decided by majority of votes;

(*e*) that all questions shall be decided by a majority of votes of the trustees present, the President having a second or casting vote in all cases of equality of votes;

votes to be recorded, if poll demanded;

(*f*) that if a poll be demanded the names of the trustees voting and the nature of their votes shall be recorded by the President;

minutes of proceedings;

(*g*) that minutes shall be kept of the names of the trustees present and of the proceedings at each meeting, in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the

[1] *See* the second foot-note on p. 715, *supra*.

President of such meeting, and shall be open to inspection by any trustee during office-hours;

(3) the Board may delegate any of their powers to committees consisting of such trustees as they think fit; any committee so formed shall conform to any instructions that may from time to time be given to them by the Board, and the Board may at any time discontinue or alter the constitution of any committee so formed; Board may delegate powers to committees.

(4) a committee may elect a Chairman of their meetings, and if no such Chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be Chairman of such meeting; Chairman of committee-meetings.

(5) committees may meet and adjourn as they think proper; but the Chairman of the Board may, whenever he thinks fit, and shall, upon the written request of not less than two members of a committee, call a special meeting of such committee; Meetings of committees. Special meetings.

(6) questions at any meeting of a committee shall be decided by a majority of votes of the members present, and in case of an equal division of votes the Chairman of the meeting shall have a second or casting vote; but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from the beginning to the end thereof; Questions how decided at committee-meetings.

(7) no act of the Board, or of any committee, or of any person acting as trustee, shall be deemed to be invalid by reason only of some defect in the appointment of such Board, committee, or trustee, or on the ground that they, or any of them, were disqualified for the office of trustee. Acts of Board etc., not invalidated by informalities.

17. The Chairman may, on behalf of the Board, enter into any contract or agreement whereof the value or amount shall not exceed one thousand rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf; but every other contract and agreement on behalf of the Board shall be in writing, and shall be signed by the Chairman and by two other trustees, and shall be sealed with the common seal of the Board. No contract or agreement not executed as is in this section provided shall be binding on the Board. Power of Chairman as to contracts.

[1] **17A.** Notwithstanding anything contained in section 17, the signature of the Chairman may be engraved, lithographed, or impressed by any mechanical Chairman's signature may be engraved.

[1] S. 17A was inserted by the Bombay Port Trust Act Amendment Act, 1881 (Bom. Act 3 of 1881), s. 1, *infra*, p. 796.

process on the coupons attached to debentures issued under this Act, and such signature so engraved, lithographed, or impressed, shall be as valid as if the same had been subscribed in the proper handwriting of the said Chairman.

Board may compound for breach of contract.

18. The Board may compound or compromise for, or in respect of, any claim or demand arising out of any contract entered into by them under this Act, or in respect of any action or suit instituted by or against them, for such sum of money, or other compensation, as they shall deem sufficient.

The Chairman.

Duties of Chairman.

19. The Chairman shall —

(*1*) attend every meeting of the Board unless prevented by sickness or other reasonable cause ;

(*2*) exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration, and in matters concerning the accounts and records of the Board ; and, subject to the regulations at the time being in force framed by the Board under section 22, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges, and allowances ;

(*3*) furnish to the Government a copy of the minutes of any of the Board's proceedings, and any returns or other information which Government may from time to time call for.

Leave of absence to Chairman.

20. Government may from time to time grant to the Chairman such leave of absence as they may deem fit, and any person whom Government appoints to act for the Chairman during any such absence on leave shall, while so acting, be deemed for all the purposes of this Act to be the Chairman.

Leave and acting allowances how defrayed.

The allowance, if any, which Government direct to be paid to the Chairman during his absence on leave, and the salary which Government direct to be paid to the person appointed to act for him, shall be a charge on the general account of the Board.

III.—Of the Officers and Servants of the Board.

Strength of Staff.

Schedule of staff and of pay and allowances to

21. The Board shall from time to time prepare and sanction a schedule of the staff of officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth

the amount and nature of the salaries, fees and allowances which the Board sanctions for each such officer or servant. be prepared and sanctioned by Board.

[1] *, * * * * * * *

Provided always that artisans, porters, and labourers, and mukaddams of porters and labourers, shall not be deemed to be officers or servants within the meaning of this section or of section 22 [2] [(except clauses (*5*), (*6*) and (*7*) thereof)] or 23[3] * * *. Proviso.

22. The Board shall from time to time frame regulations—

Board to regulate—

(*1*) for regulating the grant of leave to the officers and servants of the Board; grant of leave;

(*2*) for authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave; absentee allowances;

(*3*) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave; acting allowances;

(*4*) for regulating the period of service of all such officers and servants; Length of service;

(*5*) for determining the conditions under which such officers and servants or any of them shall, on retirement, receive pensions, gratuities, or compassionate allowances, and the amount of such pensions, gratuities or compassionate allowances: pensions, etc.;

[4] Provided that it shall be in the discretion of the Board to determine whether all of such officers and servants, or any, and, if so, which of them, shall become entitled on retirement to any such pensions, gratuities or compassionate allowances as aforesaid;

(*6*) for authorizing the payment of contributions at certain prescribed rates and subject to certain prescribed conditions to any provident fund which may, with their approval, be established by the officers and servants appointed under this Act, [5] [or to such provident contributions to provident fund.

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[1] Para. 2 of s. 21 was repealed by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 21, Vol. IV of this Code.

Para. 2 was as follows:—

"Until a schedule is prepared and sanctioned under this section, the schedule in force under s. 23 of the Bombay Port Trust Act, 1873, on the day previous to the date notified by the Governor in Council under section 8, shall be deemed to be the schedule prepared and sanctioned by the Board under the foregoing provisions".

[2] These words and figures were inserted by the Bombay Port Trust Act Amendment Act, 1883 (Bom. Act 3 of 1883), s. 1, *infra*, p. 823, and the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 6, Vol. IV of this Code.

[3] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[4] This proviso was inserted by the Bombay Port Trust Act Amendment Act, 1883 (Bom. Act 3 of 1883) s. 2, *infra*, p. 823.

[5] These words were added by the Bombay Port Trust Act Amendment Act, 1883 (Bom. Act 3 of 1883) s. 3, *infra*, p. 823.

fund, if any, as may be established by the Board for the benefit of such officers and servants].

Determining conditions of grant of wound pensions or compassionate allowances.

[1](7) for determining the conditions under which pensions, gratuities or compassionate allowances may be paid to any of such officers and servants injured, or to the surviving relatives of any of such officers and servants killed, in the execution of their duty.

Proviso as to certain officers and servants.

Provided that officers and servants who were appointed by Government previous to the passing of the [2] Bombay Port Trust Act, 1873 and whose salaries were paid from the fund known as "The Bombay Port Fund," and who have continued in the service of the trustees appointed under the [2] Bombay Port Trust Act, 1873, and of the trust constituted by this Act, shall be entitled to retiring pensions, gratuities or compassionate allowances at the same rates and subject to the same conditions as may from time to time be applicable to the servants of Government of similar standing and status; and that in the event of any question arising as to the right of any such officer or servant to a retiring pension, gratuity or compassionate allowance, or as to the amount of retiring pension, gratuity or compassionate allowance to which he is entitled, it shall be determined by Government.

Bom. Act I of 1873.

Bom. Act I of 1873.

Powers of Appointment, etc.

Appointments, etc., by whom to be made.

23. [3][Subject to the provisions of the schedule for the time being sanctioned by the Board under section 21 and of the regulations for the time being in force] under section 22, the power of appointing, promoting, suspending, dismissing, fining, reducing or granting leave to the officers and servants of the Board shall be exercised by the Chairman in the case of officers and servants whose monthly salary does not exceed three hundred rupees, and in every other case by the Board.

The power of dispensing with the services of any officer or servant of the Board, otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity or compassionate allowance, shall, subject to the aforesaid provisions, be exercised by the Board alone.

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[1] Cl. (7) of s. 22 was inserted by the Pombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 7, Vol. IV of this Code.

[2] The Bombay Port Trust Act, 1873 (Bom. Act 1 of 1873) is repealed by s. 2 of this Act.

[3] These words were substituted for the words "Subject to the provisions of the said regulations and of the schedule for the time being in force framed by the Board" in section 23 by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 9, Vol. IV of this Code.

(*III.—Of the Officers and Servants of the Board. Secs. 24-25. IV.—Of the Property and Liabilities of the Board. Secs. 26-27.*)

Sanction of Government when necessary.

24. Every order or regulation made by the Board under any of the three last preceding sections shall, so far as the same relates to the Secretary, Engineer, Traffic Manager, or Chief Accountant of the Board, be subject to the previous sanction of Government.

"Engineer" defined.

In this section the word "Engineer" means the engineer of highest grade on the Board's ordinary staff, and also any superior officer who may from time to time be employed in the capacity of Consulting Engineer to the Board.

Continuance of present Officers and Servants.

Officers and Servants of late trustees continued.

25. All officers and servants holding any office on the day previous to the date notified by the Governor in Council under section 8, under the trustees appointed under the [1] Bombay Port Trust Act, 1873, shall be deemed to have been appointed under this Act, and shall continue to hold the same office and to receive the same remuneration under the Board until an order to the contrary is passed by competent authority under this Act.

Bom. Act I of 1873.

IV.—Of the Property and Liabilities of the Board.

General Powers as to Property.

Powers of Board as to property.

26. The Board shall, for the purposes of this Act, have power to acquire and hold moveable and immoveable property, whether within or without the limits of the Port or City of Bombay; and shall also have power to lease, sell or otherwise convey any moveable or immoveable property which may have become vested in or been acquired by them:

Provided that no sale of immoveable property and no lease of any such property for a term exceeding fifty years shall be valid unless such sale or lease shall have been made with the previous sanction of Government.

Procedure when Board unable to acquire, by agreement, immoveable property.

27. When the Board are unable to acquire, by agreement, any immoveable property required for the purposes of this Act, Government may, in their discretion, order proceedings to be taken for acquiring the same on behalf of the Board as if such property were land needed for a public purpose within the meaning of the [2] Land Acquisition Act, 1870.

The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall be forthwith defrayed by the Board, and thereupon the said property shall vest in the Board.

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[1] The Bombay Port Trust Act, 1873 (Bom. Act 1 of 1873) is repealed by s. 2 of this Act.

[2] *See* now the Land Acquisition Act, 1894 (Act 1 of 1894), as modified up to 1st August, 1903.

Transfer of Property to Board.

Transfer to Board of property of present Port Trust.

28. All such immoveable and other property as is held by or in trust for the trustees of the Port of Bombay under or in pursuance or for the purposes of the [1] Bombay Port Trust Act, 1873, shall, upon and after the date notified by the Governor in Council under section 8, vest in the Board but subject to all charges and liabilities affecting the same. Bom. Act I of 1873.

The property vested by this section in the Board shall be deemed to include the estate, right, title and interest of the Secretary of State for India in Council in the rock, stones, shingle, gravel, sand or soil within the port, and also the right of levying rates on all goods landed at or shipped from any part of the foreshore between Malabar Point and Kolaba Point.

Vesting in Board the right, title and interest acquired by Secretary of State in other properties.

29. Whereas the Secretary of State for India in Council has initiated measures for the acquisition from the holders thereof, of the properties severally named and generally described in Schedule A, but the arrangements for the said acquisition are not yet complete; and whereas it is expedient that all such estate and interest as may be acquired by the Secretary of State for India in Council in the said properties should vest in the Board; It is hereby enacted that, upon and after such [2] date as shall be fixed in this behalf by the Governor in Council, all the estate, right, title and interest of the Secretary of State for India in Council, in the said properties shall, subject to the provisions hereinafter contained, become vested in the Board, subject to all covenants, charges, contracts and liabilities affecting the same.

Board to issue securities in payment of price of properties vested in them under section 29.

30. And whereas it is purposed that the purchase-money of the said properties shall be paid in Port Trust securities bearing interest at the rate of four per centum per annum; It is hereby enacted that the Board shall within two months from the date aforesaid execute and deliver to the holders of the said properties, securities in the form of Schedule B, under their common seal, for the sums for which their said properties shall be respectively purchased by the Secretary of State for India in Council: Provided that the said sums shall not exceed, in the aggregate, seventy-seven lakhs of rupees, and that so long as the said amount is not exceeded it shall be competent to the Secretary of State for India in Council to acquire such estate, right, title and interest in the said properties as he shall deem fit, anything contained in Schedule A notwithstanding.

Securities to be for not less than one

Every such security shall be for an amount of not less than one hundred rupees, and shall covenant for the payment of interest on the principal sum at

[1] The Bombay Port Trust Act, 1873 (Bom. Act I of 1873), is repealed by s. 2 of this Act.
[2] For notification fixing the date on which these properties vest in the Port Trust, *see* Bombay Government Gazette, 1885, Pt. I, p. 1212.

the rate of four per centum per annum from the date fixed by the Governor in Council under section 29; and such interest shall be payable half-yearly on or after the 1st April and the 1st October. hundred rupees each

The said securities shall be transferable by endorsement. and transferable.

[1] **30A.** The Board may from time to time, with the previous consent of Government, provide for the issue of securities in lieu of those already issued or yet to be issued under section 30 in a form other than that of Schedule B, and for the payment of the interest due on the principal sums thereby secured by coupons annexed to the said securities, or in such other manner as they shall think fit. Substitution of securities in new forms for those issued under section 30.

The holder of any security in the form of Schedule B, or in any new form duly authorized under this section, may obtain in exchange therefor, upon such terms as the Board shall from time to time determine, a security in any other form so authorized.

Every new security issued under this section shall be transferable in such manner as shall be therein expressed, [2] [anything in section 30 to the contrary notwithstanding.]

Application of the Board's Property.

31. The proceeds of the sale of any portion of the property vested in or acquired by the Board under or by virtue of this Act, and all sums paid to the Board by way of compensation under the next following section, shall be applied as follows, and not otherwise, namely :— Sale-proceeds of Board's property how invested.

(*a*) in liquidation of the principal sum of any debt contracted under paragraph 2 of section 39 if the same or any portion of the same is at the time payable; or

(*b*) in liquidation of the principal of any debt at the time due to the Secretary of State for India in Council; or

(*c*) in liquidation of the securities, or of any of them, issued under section 30.

32. Nothing in this Act shall be deemed to affect the power of Government to order proceedings to be taken under the [3] Land Acquisition Act, 1870 or any other law for the time being in force for the acquisition of land for public purposes in respect of any land vesting in the Board. Saving of powers of Government under the Land Acquisition Act.

X of 1870.

[1] S. 30A was inserted by the Bombay Port Trust Act Amendment Act, 1881 (Bom. Act 1 of 1881), s. 1, *infra*, p. 795.

[2] These words and figures were added by the Bombay Port Trust Act Amendment Act, 1881 (Bom. Act 3 of 1881), s. 2, *infra*, p. 796

[3] *See* now the Land Acquisition Act, 1894 (1 of 1894), as modified up to 1st August, 1903.

Liabilities.

Capital-debts of Board.

33. The capital-debts due by the Board on account of the immoveable and other property vested in it by this Act are as follows, namely :—

(*a*) to the Secretary of State for India in Council—the amounts mentioned in Schedule C ; and the amounts which have been advanced by or on behalf of the Secretary of State for India in Council to the trustees appointed under the [1] Bombay Port Trust Act, 1873, or applied by or on behalf of the said Secretary of State in Council, with the consent of the said trustees, for the improvement of the Port of Bombay or otherwise under sections 46 and 50, clause (*2*), of the said Act ; Bom. Act I of 1873.

(*b*) to the holders of the securities to be issued by the Board under section 30—the amounts of such securities.

Interest in what cases payable.

34. On the amounts mentioned in column 3 of Schedule C no interest shall be payable.

On the amounts mentioned in column 2 of the said schedule, interest shall be payable by the Board to the Secretary of State for India in Council annually on the 1st April at the rate of four per centum per annum until, and inclusive of, the twenty-fifth day of June, 1883, and thereafter at the rate of four and one-half per centum per annum.

On the amounts due to the Secretary of State for India in Council under clause (*a*) of the last preceding section, which are not mentioned in the said schedule, interest shall be payable by the Board to the said Secretary of State in Council annually on the 1st April at the rate of four and one-half per centum per annum.

On the amounts, if any, which may hereafter be advanced to the Board by the Governor in Council under section 39 * * *[2], interest shall be payable by the Board to the Secretary of State in Council on such dates and at such rates as shall be agreed upon between Government and the Board in respect of such advances.

On the amounts of the securities issued by the Board under section 30 [3] [or section 30A] interest at the covenanted rate of four per centum per annum shall be payable by the Board half-yearly on the 31st March and the 30th September to the Accountant-General of Bombay or other officer for the time

[1] The Bombay Port Trust Act, 1873 (Bom. Act 1 of 1873), is repealed by s. 2 of this Act.

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904) Vol. IV of this Code.

[3] This reference was inserted by the Bombay Port Trust Act Amendment Act, 1881 (Bom. Act 3 of 1881), s. 3, *infra*, p. 795.

being performing the duties of the office of the said Accountant-General, who shall pay the same on or after the 1st April and 1st October, respectively, to the holders of the said securities.

If any sum due by the Board under this section on account of interest, or any portion thereof, is not paid by them on the date on which the same is hereby declared to be payable, they shall continue liable for the payment thereof, and interest shall be paid by them to the Secretary of State for India in Council upon the balance from time to time overdue at the rate of four and one-half per centum per annum, until the whole amount is paid.

Interest to be paid out of Provincial revenues if default made by Board.

35. In the event of default being made by the Board in any payment of interest due by it under paragraph 2, 3 or 4 of the last preceding section, the same shall be paid by the Accountant-General of Bombay or other officer aforesaid, who shall debit the amount so paid to the Provincial revenues of the Presidency of Bombay; and, in the event of default being made by the Board in any payment due by it under paragraph 5 of the said section, the Accountant-General or other officer aforesaid shall nevertheless pay to the security-holders the interest due upon their securities, and shall debit the amounts so paid to the Provincial revenues of the Presidency of Bombay.

Lump payment to be made to Municipality in lieu of general tax.

[1]**36.** The Board shall pay annually, on the thirtieth day of September, to the Municipal Corporation of the City of Bombay in lieu of the general tax leviable by the said Corporation in respect of the property or some portion of the property, vested in the Board, which would otherwise be liable to be assessed to the said tax, a sum ascertained in the manner provided in sub-sections (*2*) and (*3*).

(*2*) The rateable value of the buildings and lands in the city vesting in the Board in respect of which the said tax would be leviable from the Board shall be fixed from time to time by the Governor in Council. The said

[1] This section was substituted by the City of Bombay Municipal Act, 1888 (Bom. Act 3 of 1888), s. 145, Volume III, of this Code.
The original section was as follows:—
"The Board shall pay annually on the 30th day of September to the Municipal Corporation of the City of Bombay a lump sum which shall be calculated at the following rates, namely:—
(*a*) for the period commencing on the 1st day of October last preceding the date on which this Act comes into force and ending on the day next previous to the date fixed by the Governor in Council under section 29 at the rate of fifty thousand rupees per annum;
(*b*) for the period commencing on the date fixed as aforesaid and ending on the 25th day of June, 1883, at the rate of sixty thousand rupees per annum; and
(*c*) thereafter at such rate as the Governor in Council shall from time to time determine.
"The said payment shall be in lieu of the consolidated rate leviable by the said Corporation, to which the property hereby vested in the Board or some portion of the same would otherwise be liable to be assessed."

value shall be fixed with a general regard to the provisions contained in the [1] City of Bombay Municipal Act, 1888, concerning the valuation of property assessable to property-taxes, at such amount as the Governor in Council shall deem to be fair and reasonable. Every such decision of the Governor in Council shall hold good for a term of five years, subject only to proportionate variation, if in the meantime the number or extent of the buildings and lands vesting in the Board materially increases or decreases. Bom. Act III of 1888.

(3) The sum to be paid annually to the Corporation by the Board shall be [2] [nineteen-twentieths] of the amount which would be payable by an ordinary owner of buildings or lands in the city, on account of the general tax, on a rateable value of the same amount as that fixed under sub-section (*2*).

Roads and thoroughfares constructed by Board to be maintained by Municipality in consideration of such payment.

37. In consideration of the said payment the Municipal Commissioner shall, on being satisfied that any road or thoroughfare has been duly levelled, paved, metalled, flagged, channelled and sewered by the Board, declare such road or thoroughfare to be a public road or thoroughfare, and the Municipality shall thenceforward maintain, keep in repair, light and cleanse such road or thoroughfare. [3] [Provided that in respect of any such road or thoroughfare wholly constructed after the passing of this Act the Commissioner before making such declaration may further require to be satisfied that the same has been drained, and that such lamps, lamp-posts and other apparatus as in his opinion are necessary for the lighting thereof and should be provided by the Board have been so provided.] The Municipality shall also, on requisition by the Board, maintain, keep in repair, light and cleanse the road of any wharf, dock or pier vested in the Board.

Roads and thoroughfares not to be stopped up without consent of Board.

The Municipality shall [maintain, keep in repair, light and cleanse the said roads and thoroughfares in the same manner and with the same liabilities in respect thereof as if the said roads and public thoroughfares were vested in the said Municipality; but it shall not be competent to the Municipal Commissioner or to the Municipality to discontinue or stop up any road or thoroughfare which at any time vested in, or which has been constructed by, the Board or the Trustees of the Port appointed under the [4] Bombay Port Trust Act, 1873, and which has been declared to be a public road or thoroughfare under this section or under section 9 of the said Act, without the previous consent in writing of the Board; and the land occupied by any road or Bom. Act I of 1873.

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[1] Vol. III of this Code.

[2] These words were substituted for the words "nine-tenths" by s. 2 of the Bombay Port Trust Act Amendment Act, 1901 (Bom. Act 2 of 1901), Vol. IV of this Code.

[3] These words were inserted in s. 37 by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 9, Vol. IV of this Code.

[4] The Bombay Port Trust Act, 1873 (Bom. Act 1 of 1873) is repealed by s. 2 of this Act.

thoroughfare so discontinued or stopped shall vest in the Board and not in the Municipality.

Disputes under last section to be settled by Government.

38. Any dispute which arises between the Board and the Municipality in respect of any of the provisions of the last preceding section shall be determined by the Government, and their decision shall be final.

V.—Of the Borrowing Powers of the Board.

Governor in Council may advance money to Board, or

39. The Governor in Council, acting on behalf of the Secretary of State for India in Council, may, with the previous consent of the Governor General of India in Council, from time to time, advance money to the Board for the general purposes of this Act; or

Board may raise loans.

the Board may, with the previous consent of Government, from time to time, raise money for the said purposes [1][or for the purpose of repaying, either in whole or in part, any moneys heretofore or hereafter borrowed, or owing by the Board:]

Proviso.

Provided always that no expenditure shall be charged by the Board to capital, except with the express sanction of Government.

Manner of raising loans determined by Government.

40. Whenever the consent of Government has been obtained to the raising of money by the Board under the last preceding section, Government shall, with the previous consent of the Governor General of India in Council, direct and appoint the manner in which such money shall be raised.

Interest on debentures to be first charge on rates.

41. If such money shall be raised on debentures bearing interest, such interest shall be a charge on the rates prior to the charge for interest payable to the Secretary of State for India in Council provided for by section 34.

Forms of debentures.

[2]**42.** When money is raised by the Board on debentures, the debentures shall be in the form of Schedule D, or in such other form as the Board, with the previous consent of Government, shall from time to time determine.

The holder of any debenture in the form of Schedule D, or in any form duly authorized under this section, may obtain in exchange therefor, upon such terms as the Board shall from time to time determine, a debenture in any other form so authorized.

Every debenture issued by the Board shall be transferable,—

(*a*) if it is in the form of Schedule D, by endorsement, and,

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[1] These words were inserted by the Bombay Port Trust Act Amendment Act, 1881 (Bom. Act 3 of 1881), s. 4, *infra*, p. 796.

[2] This section was substituted by the Bombay Port Trust Act Amendment Act, 1881 (Bom. Act 1 of 1881), s. 2, *infra*, p. 795.

The original section was as follows:—

"All debentures which may be so issued shall be in the form of Schedule D, and shall be transferable by endorsement, and the right to sue in respect of the moneys secured by any such debentures shall be vested in the holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others."

(*b*) if it is in any other form, in such manner as shall be therein expressed.

The right to sue in respect of the money secured by debentures issued under this section shall vest in the respective holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

Right of survivors of joint payees of securities.

[1] **42A.** (*1*) Notwithstanding anything in the [2] Indian Contract Act, 1872, section 45, when any debenture or security issued under the provisions of this Act is payable to two or more persons jointly and either or any of them dies, the debenture or security shall be payable to the survivor or survivors of those persons. Act IX of 1872.

(*2*) Nothing herein contained shall affect any claim which the representative of the deceased person may have against the survivor or survivors in respect of the debenture or security jointly payable to him or them and the deceased.

(*3*) This section shall apply whether the death of the person to whom the debenture or security was jointly payable occurred or occurs before or after this Act comes into force.

Power of one of two or more joint holders to grant receipts.

[1] **42B.** Where two or more persons are joint holders of any debenture or security issued under the provisions of this Act, any one of those persons may give an effectual receipt for any interest or dividend payable in respect of such debenture or security, unless notice to the contrary has been given to the Board by any other of the holders.

VI.—Of Revenue and Expenditure.

Levy of Rates.

Scale of rates to be framed by Board.

43. The Board shall frame a [3] scale of tolls, dues, rents, rates and charges to be levied for each or any of the following matters namely:—

(*a*) for the landing, shipping, wharfage, cranage, storage or demurrage of goods at,

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[1] Ss. 42A and 42B were inserted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 10, Vol. IV of this Code.

[2] *See* the reprint of the Act as modified up to 1st September, 1899 (with footnotes brought down to 30th June, 1901).

[3] For scale of rates for wharfage, landing and storage of ammunition and other explosives, at Sewri, *see* Bombay Government Gazette, 1900, Pt. I, p. 263, and *ibid*, 1901, Pt. I, p. 726.

For scale of charges for "Warrant" and "Unwarrant" goods deposited in Port Trust Warehouses, *see* Bombay Government Gazette, 1885, Pt. I, pp. 142 and 660; *ibid*, 1887, Pt. I, p. 466, and *ibid*, 1888, Pt. I, p. 76.

For rates chargeable at Victoria Dock, *see* Bombay Government Gazette, 1888, Pt. I, p. 296.

For wharfage fees payable at Port Trust Bandars, *see* Bombay Government Gazette, 1888, Pt. I, p. 923, and *ibid*, 1902 and 1903, Pt. I, pp. 1808 and 993, respectively.

For other notifications issued under s. 43, *see* those noted on pp. CXXI to CXXIV of the Bombay Local Rules and Orders, Ed. 1898, Vol. II.

(*b*) for permission for vessels or boats to approach, or to be alongside, and

(*c*) for animals or vehicles carrying goods to or from, or entering upon or plying for hire at or on,

any wharf, dock, [1][pier, land or building]—in the possession of the Board, and so much of the Wari Bandar and of the Gun Carriage Reclamation as is in the possession of the Great Indian Peninsula and the Bombay, Baroda and Central India Railway Companies respectively: Provided that no such toll, due, rent, rate or charge shall be leviable at so much of the said Wari Bandar and Gun Carriage Reclamation as is aforesaid in respect of any goods, vessel, animal or vehicle belonging to the said companies respectively.

[2]* * * * * * *

[3]43A. The Board may also frame a scale of charges to be levied— Scale of charges for use of dock, &c.

(*a*) for the permission to use, and for the use of, any dock in the possession of the Board, and for services which the Board renders to, and for gear, tackle, tools, instruments, utensils, staging or materials supplied by the Board for the purpose of, any vessel using, or any person working in, any such dock;

(*b*) subject to the provisions of section 68, for the use of water-boats, barges and fire-engines belonging to or maintained by the Board, and for water supplied by the Board in accordance with the provisions of section 68; and

(*c*) for the towing of, and rendering assistance of the nature referred to in clause (*9*) of section 68 to vessels outside the limits of the port.

[3] 43B. (*1*) Every scale framed by the Board under either of the two last preceding sections shall be submitted to Government for sanction; and, Scales framed under the

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[1] These words were substituted for the words "or pier" by the Bombay Port Trust Act Amendment Act, 1883, (Bom. Act 6 of 1883), *infra*, p. 824.

[2] The last three paragraphs of s. 43, were repealed by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), Vol. IV of this Code.

The three repealed paragraphs were as follows:—

"The scale so framed shall be submitted to Government for sanction, and when so sanctioned and published in the *Bombay Government Gazette*, shall have the force of law, and, subject to the like sanction and publication, may from time to time be amended or added to by the Board.

"Until a scale of rates is framed, sanctioned and published under this section, the scale in force when this Act comes into operation under s. 57 of the Bombay Port Trust Act, 1873, shall be deemed to have been duly framed, sanctioned and published under this section.

"The Board may, in special cases, with the previous sanction of Government, remit the whole or any portion of the rates leviable under this section."

[3] Ss. 43A and 43B were inserted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 12, Vol. IV of this Code.

last two sections to be submitted to Government for sanction.

when so sanctioned and published in the *Bombay Government Gazette*, shall have the force of law; and, subject to the like sanction and publication, may from time to time be amended[1] or added to by the Board.

Rates may be remitted in special cases.

(*2*) The Board may, in special cases, with the previous sanction of Government, remit the whole or any portion of the rates or of any charge leviable according to any scale in force under this section.

44. [*Toll on troops.*] *Rep. Act II of 1901* [2].

Charges for landing, shipping and transhipping goods.

45. Subject to the provisions of any law for the time being in force, the Board may land, ship or tranship goods between vessels in the harbour and the wharves, piers or docks in their possession, and may make such charges for so doing as they shall think fit.

Charges for towage.

46. The Board may procure and maintain such number of steam-vessels as they may deem fit, to be employed in towing vessels into, out of, or in the harbour, and may make such charges for towage by the said steam-vessels as they shall think fit.

Division of Accounts.

Pilotage account.

47. In the accounts of the Board a pilotage account shall be kept separate from the general account.

Items to be credited to general account.

48. The rates and charges from time to time levied under sections 43 to 46, together with all rents of lands and buildings, and all fines and penalties levied under this Act, other than fines and penalties levied from pilots or other persons employed in the pilot service, and all miscellaneous items of revenue recovered by the Board, except pilotage fees, shall be credited to the general account.

Moneys credited to general account how expended.

49. The moneys credited to the general account shall be held by the Board in trust, and, except as is hereinafter provided, shall be applied by them in payment of the following charges, namely:—

(*1*) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other moneys due to the trustees and to the officers and servants appointed under this Act, and the contributions, if any, duly authorized to be made to any provident fund established by the said officers and servants, [3][or to such provident fund, if any, as may be established by the Board for the benefit of such officers and servants; and, if any such provident fund be established by the Board, the costs and expenses, if any, which

[1] Several notifications making alterations in these scales have since 1902 been issued under this section. As an instance of such a notification, *see* Bombay Government Gazette, 1902, Pt. I, p. 1156.

[2] General Acts, Vol. VII, p. 142.

[3] These words were added by the Bombay Port Trust Act Amendment Act, 1883 (Bom. Act 3 of 1883), s. 4, *infra*, p. 823.

may be incurred by the Board in the conduct and administration thereof] ;

(*2*) the cost of repairs and maintenance of the property vested in the Board and all charges upon the same and all working expenses ;

(*3*) the interest due on any money that may have been raised by the Board under section 39 ;

(*4*) the cost, or such portion of the cost, of any new work, plant, vessel or appliance which the Board may determine to charge to revenue ;

(*5*) the interest payable by the Board under section 34 ;

[1] (*6*) the payment of pensions, gratuities and compassionate allowances granted by the Board to officers and servants of the Board injured, or to the surviving relatives of such officers and servants killed, in the execution of their duty :

Provided always that no charge which is debitable under section 50 to the pilotage account shall be debited to the general account.

Pilotage fees how credited. Moneys credited to pilotage account how expended.

50. All fees for pilotage and all fines and penalties levied under this Act from pilots or other persons employed in the pilot service shall be credited to the pilotage account and shall be held by the Board in trust, and be applied, in such proportions as they shall from time to time direct, to the following purposes only, namely :—

(*1*) the purchase and maintenance in repair of such vessels, and the supply of such materials, stores or other things as the Board deem it necessary to maintain or supply for the efficiency of the pilot service ;

(*2*) the payment of the salaries and allowances of pilots and other officers and servants of the Board employed in the pilot service or in the supervision thereof ;

(*3*) the payment of pensions or retiring gratuities or compassionate allowances to pilots and other officers and servants engaged in the pilot service, and of the contributions, if any, duly authorized to be made in their behalf to any provident fund ;

[2] (*4*) The payment of pensions, gratuities and compassionate allowances granted by the Board to pilots and other officers and servants engaged in the pilot-service, who have been injured, and to the

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[1] Cl. (*6*) of s. 49 was inserted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 13, Vol. IV of this Code.

[2] Cl. (*4*) of s. 50 was inserted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 14, Vol. IV of this Code.

surviving relatives of pilots, officers and servants so engaged, who have been killed, in the execution of their duty.

Disposal of Balances.

Balances may be invested by Board in public securities.

51. The Board may invest any balance remaining on the 31st March of each year to the credit of either the general or pilotage account after meeting all the charges properly debitable to such account, in public securities, and may from time to time sell the said securities and re-invest the proceeds in other public securities, or credit the same to the account to which the balance invested belonged, for expenditure on any of the purposes to which the moneys credited to such account may lawfully be applied.

Amounts to be so invested to be limited by Government. Surplus how disposed of.

But the money so invested by the Board, whether in respect of the general account or of the pilotage account, shall not exceed such amount, annually or in the aggregate, as shall from time to time be prescribed by Government, and any surplus remaining after deducting the amounts which may be so invested shall be applied—

(*a*) if such surplus belongs to the general account—in liquidation, on or before the 1st August next following the 31st March on which such surplus accrued, of the principal of any loan raised by the Board under section 39 or of the capital of any debt at any time due by the Board to the Secretary of State for India in Council; or of the money due to the holders of the securities issued by the Board under section 30; and

(*b*) if such surplus belongs to the pilotage account—in such manner as Government shall direct:

Proviso as to claims of pilot, etc., on balance of pilotage account.

Provided always that the pilots and other officers and servants employed in the pilot service shall have no claim upon any balance to the credit of the pilotage account or upon the profits or interest arising from any investment thereof, or of any portion thereof, except to such extent as payments to them, or in their behalf, may from time to time be sanctioned by the Board under clauses (*2*) and (*3*) of section 50.

Interest, etc., how credited and debited.

The interest and profits accruing and the loss, if any, arising from such investments as aforesaid shall be respectively credited and debited to the account to which the balance invested belongs.

Board may invest in

[1] **51A.** (*1*) For the purposes of any investment which the Board are authorized to make by this Act it shall be lawful for the Board to reserve and

[1] Section 51A was inserted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 15, Vol. IV of this Code.

set apart any debentures or securities to be issued by them on account of any loan to which the consent of Government has been given, provided that the intention to so reserve and set apart such debentures or securities shall have been notified as a condition to the issue of the loan. their own debentures and securities.

(*2*) The issue of any such debentures or securities direct to and in the name of "The Trustees of the Port of Bombay" shall not operate to extinguish or cancel such debentures or securities, but every debenture or security so issued shall be valid in all respects as if issued to, and in the name of, any other person.

(*3*) The purchase by, or the transfer, assignment or endorsement to, the Board of any debenture or security issued by the Board shall not operate to extinguish or cancel any such debenture or security, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to, any other person.

(*4*) All debentures or securities of the Board heretofore purchased by, issued, transferred or assigned to, or endorsed into the names of, the Trustees of the Port of Bombay, or any person on their behalf, and all debentures and securities heretofore issued by way of renewal, consolidation or subdivision of any such debentures or securities, shall be and shall be deemed to have always been valid and negotiable in all respects and in the same manner and to the same extent as if held by, or issued, transferred, assigned or endorsed to any other person.

Annual Estimates.

52. The Chairman shall, at a special meeting to be held in the month of February in each year, lay before the Board an estimate of the income and of the expenditure of the Board for the year commencing on the first day of April then next ensuing in such detail and form as the Board shall from time to time direct. Chairman to submit annual estimate of income and expenditure.

Such estimate shall be completed and printed, and a copy thereof sent by post or otherwise to each trustee at least ten clear days prior to the meeting before which the estimate is to be laid.

53. The Board shall consider the estimate so submitted to them, and shall sanction the same either unaltered, or subject to such alterations as they shall think fit. Board to revise and sanction estimate.

54. The estimate, as sanctioned by the Board, shall be submitted to the Government, which may, if it thinks fit, at any time within one month after receipt of the same, disallow such estimate, or any portion thereof, and return the same for amendment. The Board shall, if the estimate is so returned by Estimate to be submitted to Government.

Government, forthwith proceed to amend the same, and shall re-submit the estimate so amended to the Government.

Supplementary estimates may be made when necessary.

55. The Board may, at any time during the year for which any such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them. Every such supplementary estimate shall be considered and sanctioned by the Board and submitted to the Government in the same manner as if it were an original annual estimate.

No expenditure above five thousand rupees to be incurred unless sanctioned in estimate.

56. Save in cases of pressing emergency, no sum exceeding five thousand rupees shall be expended by or on behalf of the Board, unless such sum is included in some estimate at the time in force which has been finally approved by Government.

If any sum exceeding five thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the Chairman to the Government, together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure.

57. [*Preparation and Acceptance of Estimate.*] *Rep.* [1]*Bom. Act I of 1899.*

Audit of Accounts.

Accounts to be audited and examined.

58. The accounts of the receipts and expenditure of the Board shall, twice in every year, be laid before Government, and shall be audited and examined by such auditors as shall, from time to time, be appointed by Government.

Auditors to have power to call for books, etc.

For the purposes of such audit and examination, the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers and all other documents and papers which they may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers to appear before them at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same.

Remuneration to be fixed by Government. Report to be published.

The auditors shall be paid by the Board such remuneration as Government shall determine, the amount being debited to the general account; and, within fourteen days after the audit and examination shall have been completed, the auditors shall forward their report upon the accounts to the Board, who shall cause the same to be published, together with an abstract of the accounts, in the *Bombay Government Gazette.*

Fulfilment of Board's Liabilities.

Board bound to provide for

59. It shall be incumbent on the Board to make ample provision year by year, either by retrenchment of expenditure or by increase of rates, for the due

[1] Vol. IV of this Code.

fulfilment of all their liabilities and for the efficient administration of this Act; and, in the event of any deficiency being at any time anticipated in the income of the Board, they shall forthwith take such measures as shall seem most expedient for preventing such deficiency.

fulfilment of liabilities.

60. If it shall at any time appear to the Governor in Council that sufficient provision is not being made by the Board to meet their liabilities, or if default shall at any time be made by the Board in any payment of interest which they are required to make under section 34, the Governor in Council may require the Board, by an order in writing signed by a Secretary to Government, to increase, subject to his sanction and to the provisions o section 43, to such extent and for such period as shall appear necessary, the rates or any of the rates for the time being in force under the said section.

In default, Governor may require Board to increase rates;

If within fifteen days after receipt of such order the Board do not comply with the same, the Governor in Council may, by notification in the *Bombay Government Gazette,* increase the said rates or any of them, and such notification shall have the same force as if a new scale of rates to the same effect had been duly framed, sanctioned and published under section 43.

and on Board's failing may himself increase them.

And for the purpose of realizing any interest which has not been paid by the Board when due, in accordance with section 34, the Governor in Council may, by an order published in the *Bombay Government Gazette,* appoint some person to receive the rates, charges and other income which the Board may be entitled to receive, or any portion thereof, and to apply the same in discharge of the amount due and of all expenses authorized by Government in respect of the appointment of such person and of the recovery by him of the said rates, charges and income: and the person so appointed shall have, for the recovery of the said rates, charges, or other income, all and singular the powers and authorities conferred by this Act on the Board for the said purpose.

Governor may also appoint receiver to recover portion of Board's income.

VII.—Of the Powers and Functions of the Board.

Recovery of Rates.

61. For the amount of all rates leviable under this Act in respect of any goods the Board shall have a lien on such goods, and shall be entitled to seize and detain the same until such rates are fully paid. Rates in respect of goods to be landed shall become payable immediately on the landing of such goods. Rates in respect of goods to be removed from the premises of the Board or to

Recovery of rates in arrears.

be shipped for export shall be payable before such goods are removed or shipped. The lien for such rates shall have priority over all other liens and claims, except for general average, for the ship-owner's lien for freight upon the said goods (where such lien exists and has been preserved in the manner hereinafter provided), for primage and for money payable to Her Majesty or to the Secretary of State for India in Council.

Lien for freight preserved after landing if notice be given.

62. If the master or owner of any vessel, or his agent, at or before the time of landing from such vessel any goods at any wharf, dock or pier in the possession of the Board, shall give to the Board notice, in writing, that such goods are to remain subject to a lien for freight or other charges payable to the ship-owner, to an amount to be mentioned in such notice, such goods shall continue liable to the same lien, if any, for such charges as they were subject to before the landing thereof. Such goods shall be retained either in the warehouses and sheds of the Board, or, with the consent of the Chief Customs authority of the Presidency, in the public warehouses, at the risk and expense of the owners of the said goods until the lien is discharged as hereinafter mentioned.

Discharge of lien by payment or release.

63. Upon production to the proper officer of the Board of a document purporting to be a receipt for the amount claimed as due, or a release of freight from the person by or on whose behalf such notice shall have been given, it shall be lawful for the Board to permit such goods to be removed without regard to such lien, provided they shall have used reasonable care in respect to the authenticity of such document.

If rates not paid, or lien for freight not discharged, goods may be sold after two months.

64. If the rates payable to the Board in respect of any goods are not paid, or if the lien of the ship-owner for freight, when such notice as aforesaid has been given, is not discharged, the Board may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, shall at the expiration of two months from the time when the goods were placed in their custody, or if the goods are of a perishable nature, at such earlier period (being not less than twenty-four hours after the landing of the goods) as they shall think fit, sell by public auction the said goods, or so much as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale.

Before making such sale, ten days' notice of the same shall be given by publication thereof in the *Bombay Government Gazette*, unless the goods are of so perishable a nature as, in the opinion of the officer aforesaid, to render their immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits of.

If the address of the owner of the goods has been stated on the manifest of the cargo or in any of the documents which have come into the hands of the Board, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address, or sent by post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send the notice hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

Application of proceeds of sale.

65. In every case of any such sale as aforesaid, the moneys received from the sale shall be applied as follows—

firstly, in payment, according to their respective priorities, of the liens and claims excepted in section 61 from the priority of the lien of the Board for rates;

secondly, in payment of the expenses of the sale;

thirdly, in payment of the rates and expenses due to the Board in respect thereof.

The surplus, if any, shall be paid to the owner of the goods or his agent on his applying for the same, provided such application be made within one year from the sale of the goods, or good reason be shown why such application was not so made, to the satisfaction of the Board; and in case such application shall not be so made, nor reason shown, such surplus shall be applied by the Board to the purposes of this Act.

Power to distrain for non-payment of rates, etc.

66. If the master of any vessel in respect of which any rates, charges or penalties shall be payable under this Act, or any bye-laws made in pursuance hereof, shall refuse or neglect to pay the same, or any part thereof, on demand, it shall be lawful for the Board to distrain or arrest, of their own authority, such vessel, and the tackle, apparel or furniture belonging thereto, or any part thereof, and detain the same until the amount so due shall be paid; and, in case any part of the said rates or penalties, or of the costs of the distress or arrest, or of the keeping of the same, shall remain unpaid for the space of fifteen days next after any such distress or arrest shall have been so made, the Board may cause the vessel, or other thing so distrained or arrested, to be sold and with the proceeds of such sale may satisfy such tolls, dues, rates, penalties or charges and costs of sale remaining unpaid, rendering the surplus (if any) to the master of such vessel on demand.

Port-clearance not granted till rates, etc., are paid.

67. If the Board shall give to the officer of Government whose duty it is to grant the port-clearance of any vessel a notice stating that an amount therein specified is due in respect of rates, charges or penalties chargeable under this Act or any bye-laws or orders made in pursuance hereof, against such

vessel, or the owner or master of such vessel, in respect thereof, such officer shall not grant such port-clearance until the amount so chargeable shall have been paid.

Alternative remedy by suit.

[1]**67A.** Notwithstanding anything contained in the seven sections last preceding and in section 85, the Board may recover by suit any tolls, dues, rents, rates, charges, damages, expenses, costs, or in case of sale the balance thereof, when the proceeds of sale are insufficient, or any penalties or fines payable to, or recoverable by, the Board under this Act or under any bye-laws made in pursuance thereof.

Works.

Works to be executed under Act.

68. The works to be undertaken by the Board under this Act may include—

(*1*) wharves, docks and piers within the port or on the foreshore of the port, with all necessary and convenient arches, drains, fences, roads, railways and approaches;

(*2*) tramways, warehouses, sheds, engines and other appliances for conveying, receiving, and storing goods landed, or to be shipped, or otherwise;

(*3*) light-houses, light-ships, beacons, pilot boats and other appliances necessary for the safe navigation of the port and of the approaches thereto within a distance of three miles from the limits of the port;

(*4*) laying down moorings, and the erection of cranes, scales and all means and appliances necessary for berthing, loading and unloading vessels;

(*5*) reclaiming, excavating, enclosing and raising any part of the foreshore of the port vested in the Board, when such reclamation, excavation, enclosure or raising may be necessary for any of the purposes of this Act;

(*6*) the construction and application of dredges and other machines for cleaning, deepening and improving any portion of the port or foreshore aforesaid;

(*7*) the construction of such works, without the limits of the port, as shall be necessary for the protection of works executed by the Board within the port, and all such other works and appliances as may, in the opinion of the Board, be necessary for carrying out the purposes of this Act;

[1] S. 67A was inserted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 16, Vol. IV of this Code.

[1](*8*) the extinguishing of fires on the property of the Board, and the equipment, maintenance and use of engines for that purpose;

[1](*9*) the equipment of vessels, steam tugs or other boats and their use as well within the limits of the port as on the high seas beyond those limits, and whether in territorial waters or otherwise, for the purpose of towing or rendering assistance to any vessel, whether entering or leaving the port or bound elsewhere, and for the purpose of saving or protecting life or property;

[1](*10*) the supply of water to shipping in the port, and the equipment, maintenance and use of boats and barges for that purpose;

[1](*11*) the extinguishing of fires in the port, and the equipment, maintenance and use of engines for that purpose:

Procedure before commencement of new work.

Provided always that no new work, the estimated cost of which exceeds two thousand rupees, shall be commenced by the Board, nor shall any contract be entered into by the Board in respect of any such new work, until a plan and estimate of such work shall have been submitted to the Board and considered and approved by them; nor shall any new work the estimated cost of which exceeds two lakhs of rupees be commenced until such plan and estimate shall have been submitted to and approved by Government.

Regulation of use of Wharves, etc.

Saving of—

rights of Government to use wharves, etc., for collecting duties; and of powers of Customs-officers.

69. Nothing in this Act shall be deemed to affect—

(*a*) the right of Government to collect customs-duties, or of the Municipal Corporation of the City of Bombay to collect town-duties, at any wharf, pier or dock in possession of the Board, or

(*b*) any power or authority vested in the customs-authorities of the Presidency under any law for the time being in force for the administration of sea-customs.

Places to be set apart for use of Customs-officers on wharves, etc.,

70. Whenever any wharf, pier or dock in the possession of the Board shall be appointed, under the provisions of any Act for the time being in force for the administration of sea-customs, a wharf or place for the landing and shipping of goods within the meaning of such Act,

and whenever any warehouse, or portion of a warehouse, in the possession of the Board shall be appointed or licensed under the provisions of any such Act as a warehouse for the deposit of dutiable goods on the first importation thereof without payment of duty,

[1] Cls. (*8*) to (*11*) of s. 68 were inserted by the Bombay Port Trust Act Amendment Act 1899 (Bom. Act 1 of 1899), s. 15, Vol. IV of this Code.

the Board shall set apart and maintain such place on or adjoining such wharf, dock or pier, or in such warehouse, or portion of a warehouse, for the use of the officers of Customs, as Government shall in that behalf approve or appoint;

but right of Board to levy rates not affected;

but all rates payable in respect of any wharf, pier or warehouse, or portion thereof, so set apart, or for the storage of goods thereupon or therein, shall be paid to the Board or to such person or persons as they may appoint to receive the same, notwithstanding that the same has been so set apart;

surplus income derived from portion of Customs Bonded Warehouse used as public warehouse to be paid to Board.

and if any portion of the Customs Bonded Warehouse shall, with the consent of Government, be appointed a public warehouse for the deposit of dutiable goods as aforesaid, the Board shall set apart and maintain such portion thereof in good order for the said purpose; but the Chief Customs-authority shall pay to the Board from time to time, as may be determined by Government, all surplus income derived from the use of such portion of the said Customs Bonded Warehouse as a public warehouse as aforesaid after payment of all charges and expenses of management.

Board to provide free landing-places.

71. The Board shall provide such number of public landing-places as shall, in the opinion of Government, be sufficient, from and upon which the public shall be permitted to embark and to land free of charge.

Control of Pilots.

Board vested with right and privilege of maintaining pilots.

72. The Board shall have the right and privilege of maintaining pilots for the navigation of vessels at the port, and all fees for pilotage shall be paid to the Board: provided that no person shall be appointed to be a pilot by the Board who is not for the time being authorized by Government, under the provisions of the [1] Indian Ports Act, 1875, to pilot vessels. XII of 1875.

The Board may also, from time to time, make such [2] bye-laws and regulations as they shall think fit—

(*a*) for fixing and regulating the wages and allowances for pilotage to be received by pilots, and

(*b*) for regulating the behaviour and conduct of pilots;

and shall enforce the observance of such bye-laws and regulations by the imposition of pecuniary penalties not exceeding two hundred rupees for each offence, or by suspension or deprivation of appointment, or otherwise, as to them may appear expedient:

Provided that such bye-laws shall first have been approved by Government, and published in the manner directed by section 74.

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[1] *See* now the Indian Ports Act, 1889 (10 of 1889), as modified up to 1st April, 1901.

[2] For notifications issued under this section in conjunction with s. 74, *see* those noted on pp. CXXIV, *et. seq.*, of the Bombay Local Rules and Orders, Ed. 1898, Vol. II.

Bye-laws.

Board empowered to make bye-laws.

73. The Board may, from time to time, make bye-laws—

(*a*) for the guidance of persons employed by them under this Act;

(*b*) for the safe and convenient use of the wharves, docks, piers, warehouses, tramways and other works constructed or acquired by them under this Act;

(*c*) for the use of the public landing-places constructed by or belonging to them;

(*d*) for the reception and removal of goods brought within the premises of the Board;

(*e*) for keeping clean the harbour and basins and the works of the Board, and for preventing filth or rubbish being thrown therein or thereon;

(*f*) for settling the mode of the payment of the rates and charges leviable under this Act;

(*g*) for regulating, declaring and defining the wharves, docks and piers vested in the Board on which goods shall be landed from, and shipped on board, vessels; *[1]

[2] (*h*) for fixing the maximum amount of fees payable under section 15; and

[3] (*i*) generally for carrying out the purposes of this Act.

The Board may also, from time to time, vary, alter or revoke any such bye-laws so made by them.

Approval and publication of bye-laws.

[4] **74.** No bye-law, or alteration or revocation of a bye-law, shall have effect until the same shall have been approved by Government, and such approval shall have been published in the *Bombay Government Gazette*; and no bye-law or alteration or revocation of a bye-law shall be approved by Government until the same shall have been published for three weeks successively in the said Gazette.

Cancelment by Government.

It shall be lawful for Government at any time by notification in the said Gazette to cancel any bye-law or regulation made and published under the provisions of this and of the last two preceding sections.

Penalties

75. The Board may, in the bye-laws made under section 73, prescribe

[1] The word "and" was repealed by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 18, Vol. IV of this Code.

[2] Cl. (*h*) of s. 73 was inserted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 18, Vol. IV of this Code.

[3] The lettering of this clause was altered by s. 18 of the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), Vol. IV of this Code.

[4] For notifications issued under s. 74 in conjunction with s. 73, *see* those noted on pp. CXXV to CXXVIII of the Bombay Local Rules and Orders, Ed. 1898, Vol. II.

for infringement of bye-laws.

such penalties as they shall deem fit for the infringement of the same: provided that no penalty for any one infringement of a bye-law shall exceed one hundred rupees, nor, in case of a continuing infringement, shall any penalty exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the Board to the person guilty of such infringement.

Bye-laws and scales of rates and charges to be exhibited.

76. The Board shall cause the said bye-laws and the scales of rates and charges leviable by the Board to be printed in the English, Marathi and Gujarathi languages, to be hung up at the several wharves, docks and piers, and other convenient places on the premises of the Board.

Continuance of bye-laws framed under Bombay Act I, 1873.

77. Until bye-laws are framed by the Board under section 73, the bye-laws framed by the trustees appointed under the [1] Bombay Port Trust Act, 1873, under section 85 of that Act, and in force when this Act comes into operation, shall be deemed to have been framed under the said section 73 of this Act. Bom. Act I of 1873.

VIII.—Penalties.

For being interested in contracts with Board.

78. Any person who, being a trustee or an officer or servant of the Board, shall acquire, directly or indirectly, any share or interest in any contract or employment with, by or on behalf of the Board, shall be deemed to have committed the offence made punishable by section 168 of the [2] Indian Penal Code: XLV of 1860.

[3] Provided that nothing in this section shall apply to a person who is declared not to be disqualified, or to be deemed to have any share or interest in any contract or employment, by sub-section (2) of section 14.

For obtaining illegal gratification.

79. Any person employed under this Act, not being a public servant within the meaning of section 21 of the [2] Indian Penal Code who shall accept or obtain, or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever other than legal remuneration, as a reward for doing, or forbearing to do, any official act, or for showing, or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering, or attempting to render, any XLV of 1860.

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[1] The Bombay Port Trust Act, 1873 (Bom. Act 1 of 1873) is repealed by s. 2 of this Act.

[2] *See* the reprint of the Code as modified up to 1st April, 1903.

[3] This proviso to s. 78 was substituted by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 9, Vol. IV of this Code.

The original proviso was as follows:—

"Provided that nothing in this section shall apply to a person—

(*a*) having a share in any Joint Stock Company which shall contract with, or be employed by or on behalf of the Board, or

(*b*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board may be inserted, or

(*c*) interested in any loan of money to the Board."

service or dis-service to any person with the Board or with any public servant as such, or with the Government, shall be liable to the same punishment as is XLV of 1860. provided by the [1]Indian Penal Code in the case of the like offence committed by a public servant.

For refusing or neglecting to appear before auditor, etc.

80. Any person who shall refuse or neglect to appear before any auditor of accounts, or to produce any books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign any declaration when duly required so to do by any auditor of accounts under section 58, shall be punished for every such neglect or refusal with fine which may extend to one hundred rupees.

For setting up erection below high-water-mark in port.

81. Any person other than the Board or the Conservator of the port, who shall, without first obtaining the written consent of Government to his so doing, make, set up or fix, below high-water mark within the port, any wharf, quay, pier, mooring or other erection whatsoever, shall be punished with fine which may extend to one thousand rupees, and to a further fine which may extend to one hundred rupees for every day during which he shall permit such wharf, quay, pier, mooring or other erection to remain after notice to remove the same has been given to him.

Any such wharf, quay, pier, mooring or other erection may be removed by the Board, and the person who made, set up, or fixed the same shall also be liable to pay all expenses which may be incurred by the Board in the removal thereof.

For understating quantity or weight of goods, etc.

82. If it be found, when goods are imported at, or exported from, any wharf, dock or pier in the possession of the Board, that the weight or quantity of such goods, or the tonnage of any vessel carrying such goods, has been understated in any document presented to any officer of the Board for the purpose of enabling him to determine the rates or charges payable in respect of the said goods or vessel, the consignee in the case of goods imported, and the consignor in the case of goods exported, shall be liable to pay to the Board such sum not exceeding twice the proper rates or charges on the weight or quantity of goods or amount of tonnage so understated as may be determined by the Board, and the said sum shall, on the application of the Board, be recoverable under a Presidency Magistrate's warrant as if it were a fine inflicted by such Magistrate.

For evading rates, etc.

83. Any person who removes, or attempts to remove, or abets within the XLV of 1860. meaning of the [1]Indian Penal Code the removal of, any goods, vessels,

[1] *See* the reprint of the Code as modified up to 1st April, 1903.

animal or vehicle with the intention of evading payment of the rates or charges lawfully due in respect thereof to the Board, shall be punished with fine which may extend to fifty rupees.

Recovery of value of damage to property of Board.

84. If, through the negligence of any person having the guidance or command of any vessel, or of any of the mariners or persons employed on such vessel, damage shall be caused to any wharf, dock, pier or other work in the possession of the Board, the amount of such damage shall, on the application of the Board, be recoverable, together with the cost of such recovery, by distress and sale, under a Presidency Magistrate's warrant, of a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores belonging to such vessel:

Provided that no such warrant shall issue until the master of such vessel has been duly summoned to appear, or if he appears, until he has been heard: and

Provided also that no such warrant shall issue if the vessel was at the time under the orders of a duly authorized [1] [Dock Master or] officer in the pilot-service of the port [2] * * * * * * [3] [unless the damage caused is in no way attributable to the order, act, or improper omission of such Dock Master or officer.]

Cognizance of offences.

85. Except as is otherwise provided in section 82, all offences against this Act or against any bye-law made under section 73 shall be cognizable by a Presidency Magistrate.

All fines and damages recovered from any offender, or by any distress under section 84, shall be paid to the Board.

IX.—Miscellaneous.

Provision when day appointed for any purpose falls on Sunday or holiday.

86. Whenever any day by this Act appointed for any purpose shall happen to be a Sunday or a public holiday, the business appointed to be done on such day shall be done on the day next after such Sunday or public holiday.

Limitation of suits, etc.

87. No suit or other proceeding shall be commenced against any person for anything done, or purporting to have been done, in pursuance of this Act, without giving to such person one month's previous notice in writing of the intended suit or other proceeding, and of the cause thereof, nor after six months from the accrual of the cause of such suit or other proceeding.

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[1] These words were inserted in s. 84 by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 20, Vol. IV of this Code.

[2] The words "or of the Master Attendant's Department" were repealed by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 20, Vol. IV of this Code.

[3] These words were inserted in s. 84 by the Bombay Port Trust Act Amendment Act, 1899 (Bom. Act 1 of 1899), s. 20, Vol. IV of this Code.

(*Schedule A.*)

The Board shall not be responsible for any misfeasance, malfeasance or non-feasance of any officer or servant appointed under this Act;

XII of 1875. nor, if they should be appointed by Government, under the [1] Indian Ports Act, 1875, Conservators of the port, for any misfeasance, malfeasance or non-feasance of any Deputy Conservator, Master-attendant or Harbour-master, or of any assistant or deputy of any such officer, or of any person acting under the authority or direction of or in subordination to any such officer, assistant or deputy;

nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Board which may be used by such vessel;

nor shall the Board, or any of the said officers or servants, be liable in damages for any act *bonâ fide* done, or ordered to be done, by them in pursuance of this Act.

SCHEDULE A.

Properties referred to in section 29.

No.	Names of Holders.	General Description of Properties.
1	The Sassoon Dock Company.	All the property at Kolába belonging to the Sassoon Dock Company, known as the Sassoon Dock, together with the land on the west of Kolába road appertaining thereto and all rights, privileges and powers enjoyed or claimed by the Sassoon Dock Company in connection therewith.
2	The New Kolába Company.	A strip of land, varying from 25 to 50 feet or thereabouts in width, running along the whole foreshore of the estate of the New Kolába Company, situated at Kolába, commencing from the Kolába road at the point where the properties of the New Kolába Company and the Sassoon Dock Company adjoin, and thence continuing alongside the Bandar-wall of the Victoria Basin and the Harbour-face up to the junction of the New Kolába Company's property with the Gun-carriage Reclamation; again commencing at the junction of the New Kolába Company's property and the property of the Apollo Press Company and running along the Harbour-face and alongside the Arthur Basin up to the Kolába road; together with the whole of the Arthur Bandar and the ground adjacent thereto, situate within Customs limits, together with all rights and privileges enjoyed or claimed by the New Kolába Company in respect of the strip of land, Bandar, and ground aforesaid, and of the Victoria and Arthur Basins.

[1] *See* now the Indian Ports Act, 1889 (10 of 1889), as modified up to 1st April, 1901.

(Schedule B.)

SCHEDULE A—*continued.*

No.	Names of Holders.	General Description of Properties.
3	The Apollo Press Company.	All the land at Kolába, the property of the Apollo Press Company, and known as the Jamsetjee Bandar and Reclamation, including all rights and privileges enjoyed or claimed by the Apollo Press Company in respect of the said land and of the Gun-carriage Basin, together with all rights and privileges enjoyed or claimed by the Apollo Press Company at or in respect of any of the Bandar belonging to the New Kolába Company.
4	The Mázgaon Land Company.	All the land at Mázgaon, known as the Powder-works Bandar, the property of the Mázgaon Land Company, lying between, the Harbour and the western side of the road running from the Harbour Defences Office to Tank Bandar, together with all rights and privileges enjoyed or claimed by the Mázgaon, Land Company in respect of the said land.
5	The Frere Land Company.	All the land north of Tank Bandar, the property of the Frere Land Company, bounded towards the west by the Ghorupdavi road and towards the north and west by the Jackaria Bandar road, together with all rights and privileges enjoyed or claimed by the Frere Land Company in respect of the said land.
6	Hajee Ismael Hajee Hubeeb.	All the land and fish-ponds bounded by the Harbour on the east and by the Jackaria Bandar road and the Siwri road on the west and north, by the property of the Frere Land Company on the south, and by the property of the trustees of the port on the north, known as Siwri Bandar, together with all rights and privileges enjoyed or claimed in respect of the said land by the respective holders thereof.
7	Hajee Jackaria Nur Mahomed.	
8	Manockjee Adurjee.	
9	Aitwar Lukdee.	
10	Muncherjee Framjee Cama.	
11	Dadabhoy Hormusjee.	
12	Hajee Essa Hajee Fusla.	
13	Dorabjee Nusserwanjee.	
14	Byramjee Cowasjee.	
15	Esmail Mahomed Songaji.	

SCHEDULE B.

(See section 30.)

FORM OF SECURITY.

THE TRUSTEES OF THE PORT OF BOMBAY.

No.

Under the provisions of the Bombay Port Trust Act, 1879, we, the Trustees of the Port of Bombay, do hereby, for ourselves and our successors, promise and agree to pay to , or order, the sum of rupees

(*Schedule C.*)

, value received; such payment to be made on demand at the office of the Accountant-General, Bombay, after the expiration of three months' notice of payment to be given by the Chairman of the said Trustees in the *Bombay Government Gazette*. We further promise and agree, for ourselves and our successors, to pay to the said or order, interest on the said sum of rupees from the day of until the expiration of three months after such notice of payment as aforesaid; such interest to be at the rate of four per centum per annum and to be payable on demand at the office aforesaid half-yearly on the first day of April and the first day of October in every year until the expiration of three months from the date of such notice of payment as aforesaid, when the amount of interest then due hereunder will be payable with the principal on demand at the office aforesaid and (such notice being considered as equivalent to a tender of payment at the period appointed for the discharge hereof) all further interest shall cease.

Given under our common seal this day of 187 .

(*Signature of the Chairman and two Trustees.*)

Seal. *of the Corporation.*

SCHEDULE C.

(*See section 33.*)

STATEMENT OF CAPITAL DEBTS OF THE BOARD DUE TO THE SECRETARY OF STATE FOR INDIA IN COUNCIL.

On account of what Property, etc.	Bearing interest.	Not bearing interest.	Total.
	Rs. a. p.	Rs. a. p.	Rs. a. p.
Elphinstone Estate, purchase price .	1,85,91,596 12 8	.....	
Elphinstone Estate, expended in 11 months to 31st March, 1871 .	7,47,370 2 10	.....	
Elphinstone Estate, expended in 12 months to 31st March, 1872 .	2,75,090 8 6	.....	
Elphinstone Estate, Troop Siding, Carnac Bandar . . .	39,790 3 2	.....	
			1,96,53,847 12

(*Schedule C.*)

SCHEDULE C—*continued.*

On account of what Property, etc.	Bearing interest.	Total bearing interest.	Total.
	Rs. a. p.	Rs. a. p.	Rs. a. p.
Moody Bay Reclamation (portion east of Frere Road), expended in year to 31st March, 1871	3,57,596 8 8	.....	
Moody Bay Reclamation (portion east of Frere Road), expended in year to 31st March, 1872	2,01,345 6 4	.....	5,58,941 15 0
Apollo Bay Reclamation, expended in year to 31st March, 1872 . .	9,752 11 11	.....	9,752 11 11
Wellington Reclamation, expended in year to 31st March, 1872 . .	934 12 8	.....	934 12 8
Apollo Pier, expended prior to 31st March, 1870	.....	2,23,038 12 2	
Apollo Pier, expended in year to 31st March, 1871	1,38,173 7 8	.....	
Apollo Pier, expended in year to 31st March, 1872	61,825 9 2	.....	4,23,037 13 0
Tank Bandar, expended in year to 31st March, 1871	182 0 0	.....	182 0 0
Customs Bonded Warehouse } Apollo Bonded Ware-house . . .	.....	5,50,000 0 0	
} Custom-house Godown .	.....	25,165 0 0	5,75,165 0 0
Kussara Bandar	.....	5,285 0 0	5,285 0 0
Saw Mill Property, Tank Bandar .	.....	41,189 14 4	41,189 14 4
Expended on the above properties between 31st March, 1872, and the passing of Bombay Act I of 1873 .	1,45,053 5 4	.....	1,45,053 5 4
Balance of interest unpaid at 31st March, 1871	2,75,273 4 7		
Balance of interest unpaid at 31st March, 1872	1,50,233 3 2	.....	6,02,042 10 0
Balance of interest unpaid for the period from 1st April, 1872, until the date on which Bombay Act I of 1873 came into operation . .	1,76,536 2 3		
Total .	2,11,70,754 2 11	8,44,678 10 6	2,20,15,432 13 5

(*Schedule D.*)

SCHEDULE D.

(*See section 42.*)

FORM OF DEBENTURE.

THE TRUSTEES OF THE PORT OF BOMBAY.

The *18* .

No.

By virtue of the Act No. of 1879 of the Council of the Governor of Bombay for making Laws and Regulations, entitled the Bombay Port Trust Act, 1879, we, the trustees of the port of Bombay, in consideration of the sum of rupees paid to us by *A. B.*, of , promise to pay to the said , or order, the said sum of rupees after the date hereof, together with interest at the rate of per centum per annum, payable half-yearly on the day of and the day of .

Given under our corporate seal this day of 187 .

(*Signatures of the Chairman and two Trustees.*)

Seal. *of the Corporation.*

THE BOMBAY IRRIGATION ACT, 1879.

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BOMBAY ACT No. VII OF 1879[1].

[*2nd October, 1879.*]

An Act to provide for Irrigation in the Bombay Presidency.

Preamble. WHEREAS it is necessary to make provision for the construction, maintenance and regulation of canals, for the supply of water therefrom and for the levy of rates for water so supplied, in the Bombay Presidency; It is enacted as follows:—

PART I.

PRELIMINARY.

Short title. **1.** This Act may be called the Bombay Irrigation Act, 1879.

Local extent. It extends to the whole of the Presidency of Bombay, except the City of Bombay.

Sections 55, 101 and 105 of Bombay Land-revenue Code, 1879, amended. **2.** In section 55 of the [2] Bombay Land-revenue Code, 1879, for the words "or which has been made available in consequence of the construction, improvement or repair of any irrigational or other work by, or at the instance of, Government," the words "and in respect of which no rate is leviable under the Bombay Irrigation Act, 1879," shall be substituted; Bom. Act V of 1879.

and in section 101 of the said Code, for the word "leviable" the word "levied" shall be substituted, and the words "or under the Bombay Irrigation Act, 1879," shall be inserted after the figures "55";

and to section 105 of the said Code, the words "or of the Bombay Irrigation Act, 1879," shall be added.

Interpretation-clause. **3.** In this Act, unless there be something repugnant in the subject or context,—

(*1*) "canal" includes—

(*a*) all canals, channels, pipes and reservoirs constructed, maintained or controlled by Government for the supply or storage of water;

(*b*) all works, embankments, structures and supply and escape channels connected with such canals, channels, pipes or reservoirs, and all roads constructed for the purpose of facilitating the construction or maintenance of such canals, channels, pipes or reservoirs;

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1878, Pt. V, p. 126; for Report of the Select Committee, *see ibid*, 1870, Pt. V, p. 83; and for Proceedings in Council *see ibid*, 1879, Pt. V, pp. 3, 115, and 151.

[2] *Supra*, p. 650.

(*c*) all water-courses, drainage-works and flood embankments as hereinafter respectively defined;

(*d*) any part of a river, stream, lake, natural collection of water or natural drainage-channel, to which the Governor in Council may apply the provisions of section 5, or of which the water has been applied or used before the passing of this Act for the purpose of any existing canal;

(*e*) all land belonging to Government which is situate on a bank of any canal as hereinbefore defined, and which has been appropriated, under the orders of Government, for the purposes of such canal;

(*2*) "water-course" means any channel or pipe not maintained at the cost of Government, which is supplied with water from a canal, and includes all subsidiary works connected with any such channel or pipe, except the sluice or outlet through which water is supplied from a canal to such channel or pipe;

(*3*) "drainage-work" means any work in connection with a system of irrigation or reclamation made or improved by the Government for the purpose of the drainage of the country, whether under the provisions of section 15 or otherwise, and includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works connected therewith, but does not include works for the removal of sewage from towns;

(*4*) "flood-embankment" means any embankment constructed or maintained by Government in connection with any system of irrigation or reclamation-works for the protection of lands from inundation or which may be declared by the Governor in Council to be maintained in connection with any such system, and includes all groins, spurs, dams and other protective works connected with such embankments;

(*5*) "Collector" [1] ******* includes any officer [2] appointed by the Governor in Council to exercise all or any of the powers of a Collector under this Act;

(*6*) "Canal-officer" means any officer lawfully appointed or invested with powers under section 4;

(*7*) "owner" includes every person having a joint interest in the ownership of the thing specified; and all rights and obligations which attach to an

[1] The words "means the head revenue-officer of a district and" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] For notification empowering the Colonization Officer, Jamroo Colonization Scheme, to exercise the powers of a Collector, *see* Bombay Government Gazette, 1900, Pt. I, p. 1967.

owner under the provisions of this Act shall attach jointly and severally to every person having such joint interest in the ownership.

Appointment of Canal-officers.

4. Government or, subject to such orders as may from time to time be passed by Government, any officer of Government whom the Governor in Council empowers in this behalf, may—

(*a*) appoint[1] such officers with such designations, and assign to them respectively such powers and duties, under this Act, as Government or such officer may deem fit;

(*b*) invest[1] any Government officer, in any department, either personally, or in right of his office, or any other person, with such powers, and impose upon him such duties, under this Act, as Government or such officer may deem fit:

Proviso.

Provided that any assignment of, or investment with, powers or duties made under this section may at any time be cancelled or varied by the authority who made it.

PART II.

OF THE CONSTRUCTION AND MAINTENANCE OF CANALS.

Application of Water for purposes of Canals.

Notification when water-supply to be applied for purposes of Canal.

5. Whenever it appears expedient to the Governor in Council that the water of any river or stream flowing in a natural channel, or of any lake or any other natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal, the Governor in Council may, by notification in the Bombay Government Gazette, [2] declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

Powers of entry on Land, etc.

Powers of Canal-officers for purpose of so applying water-supply.

6. At any time after the day so named, any Canal-officer duly empowered in this behalf may enter on any land, remove any obstruction, close any channel and do any other thing necessary for such application or use of the said water, and for such purpose may take with him, or depute or employ, such subordinates and other persons as he deems fit.

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[1] For notifications issued under this section, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, pp. 546 and 547.

[2] For such a declaration as to the Khari river and its branches, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, p. 547.

Entry for enquiry.

7. Whenever it shall be necessary to make any enquiry or examination in connection with a projected canal, or with the maintenance of an existing canal, any Canal-officer duly empowered in this behalf, and any person acting under the general or special order of any such Canal-officer, may—

(*a*) enter upon such land as he may think necessary for the purpose, and

(*b*) exercise all powers and do all things in respect of such land as he might exercise and do if the Government had issued a notification under the provisions of section 4 of the [1] Land Acquisition Act, 1870, to the effect that land in that locality is likely to be needed for a public purpose, and

X of 1870.

(*c*) set up and maintain water-gauges and do all other things necessary for the prosecution of such enquiry and examination.

Power to inspect and regulate water-supply

8. Any Canal-officer duly empowered in this behalf, and any person acting under the general or special order of any such Canal-officer, may enter upon any land, building or water-course, on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the land irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of the canal from which such water is supplied.

Power to enter for repairs, and to prevent accidents.

9. In case of any accident being apprehended or happening to a canal, any Canal-officer duly empowered in this behalf, and any person acting under the general or special order of any such Canal-officer, may enter upon any land adjacent to such canal, and may take trees and other materials, and execute all works which may be necessary for the purpose of preventing such accident or repairing any damage done.

Notice to occupier of building, etc.

10. When a Canal-officer or other person proposes, under the provisions of any of the three last preceding sections, to enter into any building or enclosed court or garden attached to a dwelling-house, not supplied with water from a canal, and not adjacent to a flood-embankment, he shall previously give to the occupier of such building, court or garden such reasonable notice as the urgency of the case may allow.

Canal Crossings.

Means of crossing canals and of drainage

11. Suitable means of crossing canals shall be provided at such places as the Governor in Council thinks necessary for the reasonable convenience of the inhabitants of the adjacent land; and suitable bridges, culverts or other

[1] *See* now the Land Acquisition Act, 1894 (1 of 1894), as modified up to 1st August, 1903.

to be provided.

works shall be constructed to prevent the drainage of the adjacent land being obstructed by any canal.

Removal of Obstructions to Drainage.

Government may prohibit formation of obstructions of rivers, etc., within certain limits.

12. Whenever it appears to the Governor in Council that injury to the public health, or public convenience, or to any canal or to any land for which irrigation from a canal is available, has arisen or may arise from the obstruction of any river, stream or natural drainage-course, the Governor in Council may by [1] notification published in the *Bombay Government Gazette*, prohibit within limits to be defined in such notification, the formation of any such obstruction, or may, within such limits, order the removal or other modification of such obstruction.

Thereupon so much of the said river, stream or natural drainage-channel, as is comprised within such limits, shall be held to be a drainage-work as defined in section 3.

Canal-officer may issue order to person causing obstruction.

13. Any Canal-officer duly empowered in this behalf may, after such publication, issue an order to any person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in such order.

Canal-officer may cause obstruction to be removed.

14. If, within the time so fixed, such person does not comply with the order, the Canal-officer may cause the obstruction to be removed or modified; and if the person to whom the order was issued does not, when called upon, pay the expenses of such removal or modification, such expenses shall be recoverable by the Collector as an arrear of land-revenue.

Construction of Drainage-works.

When drainage works are necessary, Government may order scheme to be carried out.

15. Whenever it appears to the Governor in Council that any drainage-work is necessary for the public health or for the improvement of the proper cultivation or irrigation of any land, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any land, the Governor in Council may cause a scheme for such work to be drawn up and carried into execution,

and the person authorized by the Governor in Council to draw up and execute such scheme may exercise in connection therewith the powers conferred on Canal-officers by sections 7, 8 and 9, and shall be liable to the obligations imposed upon Canal-officers by sections 10 and 34.

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[1] For notification prohibiting the construction of bunds or other works in the Pinjari and Sujawat Talukas of the Karachi Collectorate, *see* Bombay Local Rules and Orders, Ed. 1898 Vol. II, p. 547.

PART III.

OF WATER-COURSES.

Construction of new water-courses.

Construction of new water-courses by private arrangement.

16. Any person may, with the permission of a Canal-officer duly empowered to grant such permission, construct a new water-course if he has obtained the consent of the holder of the land required therefor.

Application for construction by Canal-officer of new water-course.

17. Any person desiring to construct a new water-course, but being unable or unwilling to construct it under a private arrangement with the holder of the land required for the same, may apply, in writing, to any Canal-officer duly empowered to receive such applications, stating—

(*1*) that he is ready to defray all the expenses necessary for acquiring the land and constructing such water-course;

(*2*) that he desires the said Canal-officer in his behalf and at his cost to do all things necessary for constructing such water-course.

Procedure when Canal-officer considers construction of water-course expedient.

18. If the Canal-officer considers the construction of such water-course expedient, he may call upon the applicant to deposit any part of the expense such officer may consider necessary,

and upon such deposit being made, shall cause enquiry to be made into the most suitable alignment for the said water-course,

and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof,

and shall forthwith publish a notification in every village through which the water-course is proposed to be taken, that so much of such land as is situated within such village has been so marked out,

and shall send a copy of such notification to the Collector of every district in which such land is situated, for publication on such land.

Application by person wishing to be joint owner.

The said notification shall also call upon any person who wishes to share in the ownership of such water-course to make his application in that respect to the Canal-officer within thirty days of the publication of such notification.

If application admitted, applicant liable for share of cost.

If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such water-course, and in the cost of acquiring the land for the same, and shall be an owner of such water-course when constructed.

Collector to acquire land.

19. On receipt of copy of such notification, the Collector shall proceed to acquire such land under the provisions of the [1] Land Acquisition Act, 1870, as if a declaration had been issued by the Government for the acquisition

X of 1870.

[1] *See* now the Land Acquisition Act, 1894 (1 of 1894), as modified up to 1st August, 1903.

thereof under section 6 of that Act, and as if the Government had thereupon directed the Collector to take order for the acquisition of such land under section 7 of the said Act, and (if necessary) as if the Government had issued orders for summary possession being taken under section 17 of the said Act.

Procedure after construction of water-course.

20. On being put in possession of the land, the Canal-officer shall construct the required water-course; and on its completion shall give to the owner notice thereof, and of any sum payable by him on account of the cost of acquiring the land and constructing the water-course. On such notice being given, such sum shall be due from the owner to the Canal-officer. On receipt of payment in full of all expenses incurred, the Canal-officer shall make over possession of such water-course to such owner.

Rights and Obligations of owners of Water-courses.

Obligations of owner of water-course.

21. Every owner of a water-course shall be bound—

(*a*) to construct and maintain all works necessary for the passage across such water-course, of canals, water-courses, drainage-channels and public roads existing at the time of its construction, and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the occupants of neighbouring lands;

(*b*) to maintain such water-course in a fit state of repair for the conveyance of water;

(*c*) to allow the use of it to others or to admit other persons as joint owners thereof on such terms as may be prescribed under the provisions of section 23;

Rights of owners and users of water-courses.

and every owner of a water-course and every person duly authorized under the provisions hereinafter contained to use a water-course shall be entitled—

(*d*) to have a supply of water by such water-course, at such rates and on such terms, as may from time to time be prescribed under section 44 and by the rules made by the Governor in Council under section 70:

Provided always that any owner of a water-course and subject to the terms of any agreement between the parties, or to any condition imposed under section 23, any such person as aforesaid may at any time, by giving three months' previous notice in writing in this behalf to a Canal-officer duly empowered to receive such notices, resign his interest in such water-course.

Arrangement with owner

22. Any person desiring to have a supply of water through a water-course of which he is not an owner may make a private arrangement with the

owner for permitting the conveyance of water thereby, or may apply to a Canal-officer duly empowered to receive such applications for authority to use such water-course or to be declared a joint owner thereof.

by other person.

23. On receipt of any such application, the Canal-officer shall serve notice on the owner to show cause why such authority should not be granted, or such declaration should not be made, and, if no objection be raised, or if any objection be raised and be found insufficient or invalid, shall, subject to the approval of the Collector, either authorize the applicant to use the water-course, or declare him to be a joint owner thereof on such conditions as to the payment of compensation or rent or otherwise as may appear to him equitable.

Canal-officer after enquiry may authorize supply, or declare applicant to be joint owner.

24. No land acquired under this Part for a water-course shall be used for any other purpose without the previous consent of a Canal-officer duly empowered to grant such permission.

Use of land acquired for water-course for other purpose.

25. If any owner of a water-course fails to fulfil any obligation imposed upon him by clause (*a*) or (*b*) of section 21, any Canal-officer duly empowered in this behalf may require him by notice to execute the necessary work or repair within a period, to be prescribed in such notice, of not less than fifteen days, and, in the event of failure, may execute the same on his behalf, and, except as hereinafter provided in this section, all expenses incurred in the execution of such work or repair shall be a sum due by such owner to Government.

If owner fails to execute work or to repair water-course, Canal-officer may execute same.

Every person other than an owner who uses any water-course in respect of which any repair has been executed by a Canal-officer under this section shall, in the absence of any agreement between the parties or of any condition imposed under section 23 at the time such person was authorized to use such water-course to the contrary, be liable to pay to Government such proportion of the expenses incurred in the execution of such repairs as shall be determined by the said Canal-officer.

Person using water-course to pay share of expenses of repair.

Settlement of Disputes concerning Water-courses.

26. Whenever a dispute arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water-course, or among joint owners of a water-course, as to their respective shares of the expense of constructing or maintaining such water-course, or as to the amounts severally contributed by them towards such expense, or as to failure on the part of any owner to contribute his share,

Settlement of disputes as to mutual rights and liabilities of persons interested in water-course.

any person interested in the matter of such dispute may apply, in writing, to any Canal-officer duly empowered to receive such applications, stating the matter in dispute.

Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to enquire into the said matter,

and if all the persons interested consent, in writing, to his being arbitrator, he may pass his order thereon;

failing such consent, he shall transfer the matter to the Collector, who shall enquire into and pass his order thereon.

Any order passed by the Collector under this section shall remain in force until set aside by a decree of a Civil Court.

PART IV.

Of the Supply of Water.

Applications for Supply.

Water to be supplied on written application,

27. Every person desiring to have a supply of water from a canal shall submit a written application to that effect to a Canal-officer duly empowered to receive such applications, in such form as shall from time to time be prescribed by Government in this behalf.

and water may be supplied for purposes other than those of irrigation.

If the application be for a supply of water to be used for purposes other than those of irrigation, the Canal-officer may, with the sanction of Government, give permission for water to be taken for such purposes under such special conditions and restrictions as to the limitation, control and measurement of the supply as he shall be empowered by Government to impose in each case.

Provisions as to Supply.

Power to stop water-supply.

28. The supply of water to any water-course or to any person who is entitled to such supply shall not be stopped except—

(*a*) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority;

(*b*) whenever and so long as any water-course by which such supply is received is not maintained in such repair as to prevent the wasteful escape of water therefrom;

(*c*) whenever and so long as it is necessary to do so in order to supply in rotation the legitimate demands of other persons entitled to water;

(*d*) whenever and so long as it may be necessary to do so in order to prevent the wastage or misuse of water;

(*e*) within periods fixed from time to time by a Canal-officer duly empowered in this behalf, of which due notice shall be given.

Duration of supply.

29. When canal-water is supplied for the irrigation of one or more crops only, the permission to use such water shall be held to continue only until such crop or crops shall come to maturity, and to apply only to such crop or crops.

Agreements for supply of water transferable with property in respect of which supply given; right to use of water not transferable in other case without permission of Canal-officer.

30. Every agreement for the supply of canal-water to any land, building or other immoveable property shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such land, building or other immoveable property takes place.

No person entitled to the use of any work or land appertaining to any canal, and, except in the case of any such agreement as aforesaid, no person entitled to use the water of any canal, shall sell or sub-let, or otherwise transfer, his right to such use without the permission of a Canal-officer duly empowered to grant such permission.

PART V.

OF THE AWARD OF COMPENSATION.

Compensation when claimable.

Compensation in cases of ascertainable substantial damage.

31. Compensation may be awarded in respect of any substantial damage caused by the exercise of any of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation:

Exceptions.

Provided that no compensation shall be so awarded in respect of any damage arising from—

(*a*) deterioration of climate, or

(*b*) stoppage of navigation, or the means of rafting timber or of watering cattle, or

(*c*) stoppage or diminution of any supply of water in consequence of the exercise of the power conferred by section 5, if no use have been made of such supply within the five years next before the date of the issue of the notification under section 37, or

(*d*) failure or stoppage of the water in a canal, when such failure or stoppage is due to—

(*1*) any cause beyond the control of Government,

(*2*) the execution of any repairs, alterations or additions to the canal, or

(*3*) any measures considered necessary by any Canal-officer duly empowered in this behalf for regulating the proper flow of

water in the canal, or for maintaining the established course of irrigation;

Remission of water-rates when allowable.

but any person who suffers loss from any stoppage or diminution of his water-supply due to any of the causes named in clause (*d*) of this section shall be entitled to such remission of the water-rate payable by him as may be authorized by the Governor in Council.

Limitation of claims.

32. No claim for compensation under this Act shall be entertained after the expiration of twelve months from the time when the damage complained of commenced, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

33. [*Compensation not claimable in respect of works executed prior to Act.*] *Rep.* [1]*Act XVI of 1895.*

Summary Decisions.

Compensation for damage caused by entry on land, etc.

34. In every case of entry upon any land or building under section 6, section 7, section 8, or section 9, the Canal-officer or person making the entry shall ascertain and record the extent of the damage, if any, caused by the entry, or in the execution of any work, to any crop, tree, building or other property,

and within one month from the date of such entry compensation shall be tendered by a Canal-officer duly empowered in this behalf to the landholder or owner of the property damaged.

If such tender is not accepted, the Canal-officer shall forthwith refer the matter to the Collector for the purpose of making enquiry as to the amount of compensation and deciding the same.

Compensation on account of interruption of water-supply.

35. If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in clause (*d*) of section 31, the holder of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector, after consulting the Canal-officer, shall award to the petitioner reasonable compensation for such loss.

Decision as to amount of compensation under either of last two sections conclusive.

36. The decision of the Collector under either of the last two preceding sections as to the amount of compensation to be awarded, or, if any rule framed under section 70, such decision shall be declared to be appealable, then the decision of the authority to whom the appeal lies, shall be conclusive.

Formal Adjudications.

Notice as to claims for compensation

37. As soon as practicable after the issue of a notification under section 5, the Collector shall cause public notice to be given at convenient places,

[1] Vol. I of this Code, p. 223.

stating that the Government intend to apply or use the water as aforesaid, and that claims for compensation may be made before him. in certain cases.

A copy of sections 31 and 32 shall be annexed to every such notice.

38. All claims for compensation under this Act, other than claims of the nature provided for in sections 34 and 35, must be made before the Collector of the district in which such claim arises. Claims to be preferred to Collector.

39. The Collector shall enquire into every such claim and determine the amount of compensation, if any, which should in his opinion be given to the claimant; and sections 11, 12, 14, 15, 18 to 23 (inclusive), 26 to 40 (inclusive), 51 and 58 of the [1]Land Acquisition Act, 1870, shal apply to such enquiries: Collector to be guided by provisions of Land Acquisition Act, 1870.

X of 1870.

Provided that instead of the last clause of the said section 26, the following shall be read :—

"The provisions of this section and of sections 31 and 40 of the Bombay Irrigation Act, 1879, shall be read to every assessor in a language which he understands before he gives his opinion as to the amount of compensation to be awarded."

40. In determining the amount of compensation under the last preceding section, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed; Diminution in market-value to be considered in fixing compensation.

and, where such market-value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

41. All sums of money payable for compensation awarded under section 39, shall become due three months after the claim for such compensation was made; Compensation when due.

and simple interest at the rate of six per centum per annum shall be allowed on any such sum remaining unpaid after the said three months, except when the non-payment of such sum is caused by the neglect or refusal of the claimant to apply for or receive the same. Interest.

Abatements of Land-revenue and Rent.

42. If compensation is awarded under section 39 on account of a stoppage or diminution of supply of water to any land paying revenue to Government, and the amount of the revenue payable on account of such land has been fixed Abatement of revenue-demand on interruption

[1] *See* now the Land Acquisition Act, 1894 (1 of 1894), as modified up to 1st August, 1903.

of water-supply.

with reference to the water-advantages appertaining thereto, the holder of the said land shall be entitled to an abatement of the amount of revenue payable to such extent as shall be determined by the Collector.

Abatement of inferior holder's rent on interruption of water-supply.

43. Every inferior holder of any land in respect of which such compensation has been paid shall, if he receives no part of the said compensation, be entitled to an abatement of the rent previously payable by him to the superior holder thereof in proportion to the reduced value of the holding;

Enhancement of inferior holder's rent on restoration of water-supply.

but, if a water-supply which increases the value of the holding is afterwards restored to the said land otherwise than at the cost of the inferior holder, the superior holder shall be entitled to enhance the rent in proportion to such increased value: provided that the enhanced rent shall not in any case exceed the rent payable by the inferior holder before the abatement, unless the superior holder shall, independently of the provisions of this section, be entitled so to enhance the previous rent.

PART VI.

OF WATER-RATES.

Supply Rates.

Determination of rates for supply of canal-water.

44. Such rates shall be leviable for canal-water supplied for purposes of irrigation, or for any other purpose, as shall from time to time be determined by the Governor in Council.

Provision for cases in which existing water-supply is improved.

If, owing to the construction of a new canal or to the improvement or extension of an existing canal, the amount or duration of any water-supply, in respect of which either no revenue or a fixed amount of revenue has hitherto been paid to Government, is increased, rates shall be leviable under this section in respect of the increased water-supply only.

The said rates shall be payable by the person on whose application the supply was granted, or by any person who uses the water so supplied.

Occasional Rates.

Liability when person using water unauthorizedly cannot be identified.

45. If water supplied through a water-course be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified, the person or all the persons on whose land such water has flowed, if such land has derived benefit therefrom,

or, if no land has derived benefit therefrom, the person, or all the persons chargeable in respect of the water-supply through such water-course,

shall be liable, or jointly liable, as the case may be, for the charges which shall be made for such use under the rules prescribed by the Governor in Council under section 70.

Liability when water runs to waste.

46. If water supplied through a water-course be suffered to run to waste, and if, after enquiry, the person through whose act or neglect such water was suffered to run to waste cannot be discovered,

the person or all the persons chargeable in respect of the water supplied through such water-course shall be liable, or jointly liable, as the case may be, for the charges which shall be made in respect of the water so wasted, under the rule prescribed by the Governor in Council under section 70.

All questions arising under this and the last preceding section shall, subject to the provisions of section 67, be decided by a Canal-officer duly empowered in this behalf.

Charges recoverable in addition to penalties.

47. All charges for the unauthorized use or for waste of water may be recovered, as water-rates, in addition to any penalties incurred on account of such use or waste.

Percolation and Leakage-rates.

Land deriving benefit from percolation liable to water-rate.

48. If it shall appear to a Canal-officer duly empowered to enforce the provisions of this section, that any cultivated land within two hundred yards of any canal receives, by percolation or leakage from such canal, an advantage equivalent to that which would be given by a direct supply of canal-water for irrigation,

or that any cultivated land, wherever situate, derives by a surface-flow, or by means of a well sunk within two hundred yards of any canal after the admission of water into such canal, a supply of water which has percolated or leaked from such canal,

he may charge on such land a water-rate not exceeding that which would ordinarily have been charged for a similar direct supply to land similarly cultivated.

For the purposes of this Act, land charged under this section shall be deemed to be land irrigated from a canal.

49 to 56. [*Protection-rate.*] *Rep. Bom. Act III of 1880.*

Recovery of Water-rates and other Dues in Arrears.

Water-rates when and to whom to be paid.

57. Every water-rate leviable under this Act shall be payable in such instalments and on such dates and to such officers as shall from time to time be determined under the orders of the Governor in Council.

Arrears to be recoverable as land-revenue.

Any such rate, or instalment of the same, which is not paid on the day when it becomes due, and any sum due to Government or to a Canal-officer, whether on behalf of Government or of any other person under Part III * * [1] which is not paid when demanded, shall be recoverable according to the law and under the rules for the time being in force for the recovery of arrears of land-revenue.

Rent due to owners of water-courses to be recoverable as arrears of land-revenue.

Rent payable to the owner of a water-course by a person authorized to use such water-course shall be payable in such instalments and on such dates as the Canal-officer duly empowered to act under section 23 shall direct, and may be recovered on behalf of the owner according to the law and rules aforesaid:

Provided always that no more shall at any time be payable to the owner than is actually recovered from the said person.

PART VII.

Of obtaining Labour for Canals on emergencies.

Procedure for obtaining labour for works or repairs urgently required.

58. Whenever it appears to a Canal-officer duly empowered to act under this section. that unless some work or repair is immediately executed, such serious damage will happen to any canal as to cause sudden and extensive public injury,

or, that unless some clearance of a canal or other work which is necessary in order to maintain the established course of irrigation is immediately executed, serious public loss will occur,

and that the labourers necessary for the proper execution of such repair, clearance or work cannot be obtained in the ordinary manner within the time that can be allowed for the execution of the same so as to prevent such injury or loss,

the said officer may, by order under his hand, direct that the provisions of this section shall be put into operation for the execution of such repair, clearance or work; and thereupon every able-bodied person who resides or holds land in the vicinity of the locali y where such repair, clearance or work has to be executed, and whose name appears in the list hereinafter mentioned, shall, if required to do so by such officer or by any person authorized by him in this behalf, be bound to assist in the execution of such repair, clearance or work by labouring thereat as such officer or any person authorized by him in this behalf may direct.

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[1] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bombay Act of 1904), Vol. IV of this Code.

All persons so labouring shall be entitled to payment at rates which shall not be less than the highest rates for the time being paid in the neighbourhood for similar labour.

List of labourers.

59. Subject to such rules as may from time to time be prescribed under section 70 in this behalf, the Collector shall prepare a list of the persons liable to be required to assist as aforesaid, and may from time to time add to or alter such list or any part thereof.

Reports to be made by Canal-officer.

60. All orders made under section 58 shall be immediately reported to the Collector for the information of the Commissioner of the division, and likewise to the Chief Engineer for Irrigation, for the information of Government.

PART VIII.

Of Penalties.

For damaging canal, etc.

61. Whoever voluntarily and without proper authority—

(*1*) damages, alters, enlarges or obstructs any canal;

(*2*) interferes with, or increases or diminishes the supply of water in, or the flow of water from, through, over or under any canal, or by any means raises or lowers the level of the water in any canal;

(*3*) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(*4*) destroys, defaces or moves any land or level mark or water-gauge fixed by the authority of a public servant;

(*5*) destroys, tampers with, or removes, any apparatus, or part of any apparatus, for controlling, regulating or measuring the flow of water in any canal;

(*6*) passes, or causes animals or vehicles to pass, in or across any of the works, banks or channels of a canal contrary to rules made under section 70, after he has been desired to desist therefrom;

(*7*) causes or knowingly and wilfully permits cattle to graze upon any canal or flood-embankment, or tethers or causes or knowingly and wilfully permits cattle to be tethered, upon any such canal or embankment, or roots up any grass or other vegetation growing on any such canal or embankment, or removes, cuts or in any way injures, or causes to be removed, cut or otherwise injured, any tree, bush, grass or hedge intended for the protection of such canal or embankment;

(*8*) neglects, without reasonable cause, to assist or to continue to assist in the execution of any repair, clearance or work, when lawfully bound so to do under section 58;

(*9*) violates any rule made under section 70 for breach whereof the Governor in Council shall, in such rules, direct that a penalty may be incurred;

and whoever—

(*10*) being responsible for the maintenance of a water-course, or using a water-course, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner or prevents or interferes with the lawful use of such water-course by any person authorized to use the same or declared to be a joint owner thereof under section 23;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the [1] Indian Penal Code, on conviction before a Magistrate, be punished for each such offence with fine which may extend to fifty rupees, or with imprisonment * * *[2] for a term which may extend to one month, or with both. XLV of 1860.

For endangering stability of canal, etc.

62. Whoever without proper authority—

(*1*) pierces or cuts through, or attempts to pierce or cut through, or otherwise to damage, destroy or endanger the stability of any canal;

(*2*) opens, shuts or obstructs, or attempts to open, shut or obstruct, any sluice in any canal;

(*3*) makes any dam or obstruction for the purpose of diverting or opposing the current of a river or canal on the bank whereof there is a flood-embankment, or refuses or neglects to remove any such dam or obstruction when lawfully required so to do;

shall, when such act shall not amount to the offence of committing mischief within the meaning of the [1]Indian Penal Code, on conviction before a Magistrate of the first or second class, be punished for each such offence with fine which may extend to two hundred rupees, or with imprisonment * * * * * * for a term which may extend to six months, or with both. XLV of 1860.

[1] *See* the reprint of the Code as modified up to 1st April, 1903.

[2] The words "of either description within the meaning of the said Code" were repealed by the Bombay General Clauses Act, 1886, (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

Obstruction to be removed and damage repaired.

63. Whenever any person is convicted under either of the last two preceding sections, the convicting Magistrate may order that he shall remove the obstruction or repair the damage in respect of which the conviction is held within a period to be fixed in such order. If such person neglects or refuses to obey such order within the period so fixed, any Canal-officer duly empowered in this behalf may remove such obstruction or repair such damage, and the cost of such removal or repair, as certified by the said officer, shall be leviable from such person by the Collector as an arrear of land-revenue.

Persons employed on canal may take offenders into custody.

64. Any person in charge of, or employed upon, any canal may remove from the lands or buildings belonging thereto, or may take into custody without a warrant, and take forthwith before a Magistrate or to the nearest Police-station, to be dealt with according to law, any person who within his view—

(*1*) wilfully damages, obstructs or fouls any canal, or

(*2*) without proper authority interferes with the supply or flow of water, in or from any canal, or in any river or stream so as to endanger damage, make dangerous or render less useful any canal.

Saving of prosecution under other laws.

65. Nothing herein contained shall prevent any person from being prosecuted under any other law for any act or omission made punishable by this Act:

Provided that no person shall be punished twice in respect of one and the same act or omission.

Payment of fine as award to informant.

66. Whenever any person is fined for an offence under this Act, the Court which imposes such fine, or which confirms in appeal or revision a sentence of such fine, or a sentence of which such fine forms part, may direct that the whole or any part of such fine may be paid by way of award to any person who gave information leading to the detection of such offence or to the conviction of the offender.

If the fine be awarded by a Court whose decision is subject to appeal or revision, the amount awarded shall not be paid until the period prescribed for presentation of the appeal has elapsed, or, if an appeal be presented, till after the decision of the appeal.

PART IX.

MISCELLANEOUS.

Appeals against orders under Act.

67. Every order passed by a Canal-officer under sections 13, 18, 25, 30, 45, 46 and 48 shall be appealable to the Collector:

Provided that the appeal be presented within thirty days of the date on which the order appealed against was communicated to the appellant.

All orders and proceedings of a Collector under this Act shall be subject to the supervision and control of the Commissioner. [1] * * *

Power to summon and examine witness.

68. Any officer empowered under this Act to conduct any enquiry may exercise all such powers connected with the summoning and examining of witnesses and the production of documents as are conferred on Civil Courts, by the [2] Code of Civil Procedure; and every such enquiry shall be deemed a judicial proceeding.

Service of notices.

69. Service of any notice under this Act shall be made by delivering o tendering a copy thereof signed by the officer therein mentioned. Whenever it may be practicable, the service of the notice shall be made on the person therein named. When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business; and, if such person has no ordinary place of residence within the district, service of any notice may be made by sending copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

Power to make, alter and cancel rules.

70. The Governor in Council may from time to time make [3] rules not inconsistent with this Act to regulate the following matters:—

(*a*) the proceedings of any officer who, under any provision of this Act is required or empowered to take action in any matter;

(*b*) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;

(*c*) the person by whom, the time, place or manner at or in which, any thing for the doing of which provision is made in this Act, shall be done;

(*d*) the amount of any charge to be made under this Act;

(*e*) and generally to carry out the provisions of this Act.

The Governor in Council may, from time to time, alter or cancel any rules, so made.

Publication of rules.

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[1] The words "of the division" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[2] *See* now the Code of Civil Procedure (Act 14 of 1882), as modified up to 1st December, 1899.

[3] For rules for the administration of canals in the Bombay Presidency, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, pp. 550 and 570.

For rules regarding the administration of the Jamrud Canal in Sindh, *see* Bombay Government Gazette, 1901, Pt. I, p. 2540, and *ibid*, 1902, p. 344.

For rules regarding the preparation of list of persons bound to assist on emergencies, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, p. 574.

BOMBAY ACT No. I OF 1880.

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SCHEDULE.

BOMBAY ACT No. I OF 1880[1].

[*The 6th May, 1880.*]

An Act to amend the law relating to the settlement of Villages held by Khots.

Preamble. WHEREAS it is expedient to make special provision for the settlement and revenue-administration of villages in the Ratnágiri District which are held by khots; It is enacted as follows :—

PART I.

PRELIMINARY.

Short title. Extent. 1. This Act may be cited as the Khotí Settlement Act, 1880.

It extends to all villages held by khots in the district of Ratnágiri.

The Governor in Council may, from time to time, by notification in the *Bombay Government Gazette*, extend all or any of its provisions to any such village in the Kolába District.

Repeal of sections 37 and 38 of Bombay Act I of 1865. 2. Sections 37 and 38 of the[2] Bombay Survey and Settlement Act, 1865, are repealed so far as they apply to any village to which this Act extends, or may hereafter be extended : Bom. Act I of 1865.

Provided that the said repeal shall not affect the validity of any settlement already made under the provisions of the said sections and which has been guaranteed by the Government for a fixed period under section 28 of the said Act.

Interpretation-clause. 3. In this Act, unless there be something repugnant in the subject or context,—

(*1*) "village" means a village, or a portion or share of a village, to the extent to which a khot has any right or interest in such village, or portion or share thereof :

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1879, Pt. V, p. 160; for Report of the Select Committee, *see ibid*, p. 166; and for Proceedings in Council, *see ibid*, p. 163 and *ibid*, 1880, Pt. V, p. 5.

[2] *Supra*, p. 451.

(*2*) "khot" includes—

(*a*) a mortgagee lawfully in possession of a khotkí,

(*b*) all co-sharers in a khotkí :

(*3*) "khotkí" means the aggregate of the rights and interests vested in a khot as such :

(*4*) "jámá" means land-revenue payable by a khot to Government :

(*5*) "privileged occupant" means—

(*a*) a dhárekari, or

(*b*) a quasi-dhárekari, or

(*c*) an occupancy-tenant :

(*6*) "dhárekari" means a land-holder who holds on the "dhára" tenure :

(*7*) "quasi-dhárekarí" means a land-holder of any of the denominations named in the first column of the schedule :[1] * * *

(*8*) "occupancy-tenant" means a holder of khotí land who has a right of occupancy in such land :

(*9*) "dhára land" means land held by a dhárekari, or by a quasi-dhárekari :

(*10*) "khotí land" means land in respect of which a khot has, as such, any right or interest and which is not dhára land :

[2] (*11*) "Recording-officer" means any officer duly empowered to make or amend entries in the settlement-register or other settlement records by or under section 108 of the [3] Bombay Land-revenue Code, 1879, or Part III of this Act :

Bom. Act V of 1879.

(*12*) any word or expression which is defined in the [3] Bombay Land-revenue Code, 1879, and is not hereinbefore defined, shall be deemed to have the meaning given to it by that Code.

Bom. Act V of 1879.

Expressions defined in the Bombay Land-Revenue Code.

PART II.

General Provisions relating to Khots and their inferior holders.

Khots.

4. Khots shall continue to hold their villages conditionally on the paymen of the amounts due on account of the jámá of the same, according

Continuance of khots' villages to be

[1] The words "hereto annexed" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act. 3 of 1886), Schedule B. This Schedule has been printed as an Appendix to the Bombay General Clauses Act, 1904 (Bombay Act 1 of 1904), Vol. IV of this Code.

[2] Clause (*11*) was inserted by the Khotí Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904), s. 2, Vol. IV of this Code, in the place of the former clause (*11*) which was repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

The former clause (*11*) was as follows :—

"'part' and 'section' mean respectively a part and section of this Act."

[3] *Supra*, p. 631.

subject to payment of jámá.

to the provisions of this Act and of the [1] Bombay Land-revenue Code, 1879, and of any rules for the time being in force made under this Act or under the said Code, and subject to the fulfilment of any other term or liability lawfully annexed or appertaining to their tenure. Bom. Act V of 1879.

Inferior Holders.

What holders are to be deemed occupancy-tenants.

5. Every holder of khotí land who has actually occupied or cultivated the same continuously from any time previous to the commencement of the revenue year 1845-46 has a right of occupancy in the land so occupied or cultivated.

The occupation or cultivating of the father or other person from whom the present holder inherits, and in the case of occupancy-rights which are transferable otherwise than by inheritance, the occupation or cultivating of any former holder through whom the present holder claims, or of any mortgagee or lessee of the present or any former holder, shall be deemed to be the occupation or cultivating of the present holder within the meaning of this section;

and, in the case of land which is periodically fallow, years of fallow shall be reckoned as years of occupation or cultivation for the purpose of this section.

Right of occupancy when land has been wrongfully transferred.

6. If an occupancy-right which is not transferable otherwise than by inheritance, has been so transferred, the actual holder of the land shall be deemed to be the tenant thereof, and if he, or his father, or other person from whom he inherits, has occupied or cultivated the land continuously from any time previous to the commencement of the revenue year 1845-46, he shall have a right of occupancy therein:

Provided that, if the actual holder is in possession of the land as mortgagee, or lessee merely, his occupation or cultivating shall for the purpose of this section and of section 5 be deemed to be the occupation or cultivating of the mortgagor or lessor, and that, if such mortgagor or lessor has a right of occupancy in the land, such right shall, notwithstanding the provisions of section 9, be subject to the mortgage lien or lease of the said mortgagee or lessee until the same is duly discharged or determined.

Continuance of privileged occupants' tenures.

7. Privileged occupants shall continue to hold their lands conditionally on the payment of the rent from time to time lawfully due by them to the khot or other person entitled to receive payment of the same.

[1] *Supra*, p. 631.

Ordinary tenants.

8. Tenants other than occupancy-tenants shall continue to hold their lands subject to such terms and conditions as may have been, or may hereafter be, agreed upon between the khot and themselves, and in the absence of any such specific agreement shall be held to be yearly tenants liable to pay rent to the khot at the same rates as are paid by occupancy-tenants in the village in which the lands held by them are situate: Provided that the said rates shall not exceed the maxima prescribed in section 33, clause (*c*).

Transfer, etc., of Rights.

What rights are transferable.

9. The rights of khots, dhárekaris and quasi-dhárekaris shall be heritable and transferable.

Occupancy-tenants' rights shall be heritable, but shall not be otherwise transferable, unless in any case the tenant proves that such right of transfer has been exercised in respect of the land in his occupancy, independently of the consent of the khot, at some time within the period of thirty years next previous to the commencement of the revenue year 1865-66, or, unless in the case of an occupancy-right conferred by the khot under section 11, the khot grants such right of transfer of the same.

Resignation, lapse or forfeiture of privileged occupants' lands.

10. If a privileged occupant resign the land or any portion of the land in his holding, or if any such occupant's land lapse for failure of heirs, or other persons entitled thereto, or is forfeited on the occupant's failing to pay the rent due in respect thereof, the land so resigned, lapsed or forfeited, shall be at the disposal of the khot as khotí land free of all encumbrances, other than liens or charges created or existing in favour of Government.

But it shall not be competent to a privileged occupant at any time to resign a portion only of his entire holding except with the consent of the khot; and no privileged occupant shall be deemed to have forfeited his land on failure to pay rent unless such forfeiture is certified by the Collector.

Grant of Privileged Occupant's Rights by Khots.

Privileged occupant's rights may be conferred by khots.

11. It shall be competent to the khot at any time to confer on any tenant the right of a privileged occupant of any class, or on a privileged occupant of one class, the right of a privileged occupant of a superior class:

Provided that the grant by the khot of any such right shall not affect any right of Government in respect of the land which is the subject of such grant or of the trees or other forest-produce of such land.

Record of grant.

12. On receipt of a written application from the khot, in such form as shall be prescribed in rules to be framed under section 40, the Collector shall

cause an entry to be made, in such record as may from time to time be prescribed by Government in this behalf, of any right conferred by the khot under the last preceding section, and an entry thus duly made and authenticated by the Collector's signature shall be conclusive proof of the facts therein recorded.

Nothing in this section or in section 11 shall be deemed to apply to a mortgagee lawfully in possession of a khotkí unless such mortgagee shall have been expressly authorized by his mortgagor to exercise the powers conferred by the said sections.

Recovery of Rents.

Rent of land which an occupancy-tenant neglects to cultivate.

13. [*Commutation-rates for rent payable in kind.*] *Rep.*[1] *Bom. Act III of 1904, s. 3.*

14. If an occupancy-tenant neglect to raise a crop on any land in his holding on account of the rent of which he would, if he raised a crop, be liable to pay the khot a share of the produce, the khot shall be entitled to receive from him the same amount of rent as if he had raised a crop.

In the event of a dispute as to the amount of rent due under this section, such amount shall be determined by the Collector, but no such rent shall be recoverable by the khot if the tenant shall satisfy the Collector that in the year for which such rent is claimed it was proper, having regard to the custom of the village in respect of lands of the same class, or to the nature and requirements of the soil, that the land should be left fallow.

Accounts.

Khots to keep accounts;

and to produce them when required;

and to give written receipts.

15. The khot shall—

(*a*) keep, or cause to be kept, such accounts as may from time to time be required by the Collector under the orders of Government; and

(*b*) produce such accounts, whenever required, to the Collector or to any officer subordinate to the Collector not lower in rank than a mahálkari, and

(*c*) give a written receipt for every payment of rent or land-revenue made to him whether by a privileged occupant or tenant, or by a co-sharer in his khotkí.

Penalty.

For disobedience of any order duly made under this section, or for any infraction of the provisions of this section, the khot shall, on conviction before the Collector or the Assistant or Deputy Collector in charge of the táluka in which such khot's village is situate, be liable to a fine not exceeding one hundred rupees, which shall be recoverable as an arrear of jámá.

[1] Vol. IV of this Code.

PART III.

SURVEY AND SETTLEMENT.

Settlement-records.

Bom. Act V of 1879.

Preparation of settlement-register of khoti villages.

16. Whenever a survey-settlement of the land-revenue of any village to which this Act extends is made or revised under the provisions of Chapter VIII of the [1]Bombay Land-revenue Code, 1879, the settlement-register prepared under section 108 of the said Code shall show the area and assessment of each survey-number and also whether such survey-number is held by a privileged occupant or not.

If a survey-number is held by one or more privileged occupants, the said register shall further specify the tenure on which such number is held, the name of the registered occupant thereof, and, in the case of a survey-number held by an occupancy-tenant, whether his interest therein is transferable otherwise than by inheritance or not.

Survey-numbers which are not held by privileged occupants shall be entered in the said register in the name of the khot, or, if a partition of the khotki has taken place, of the co-sharers to whose shares they respectively belong.

The said register shall also contain a list of all the co-sharers of the khotki, if the village be not held by one khot in his own sole right, and shall specify the extent of each such co-sharer's interest in the khotki.

[2] **17.** The other records prepared under the said section shall specify—

Other records to show privileged occupants' rents;

(*a*) the description and amount of rent, if any, payable to the khot by each privileged occupant according to the provisions of section 33; and

(*b*) if the khotki is undivided,—

and, when the khotki is undivided, the co-sharers' respective rights;

(*i*) the survey-numbers in the possession of each co-sharer and the rent payable by such co-sharer on account of the same; and

(*ii*) the terms and particulars of any written agreement which the co-sharers, or any of them, have entered into, or may at the time of the framing of the said record enter into, determining their respective responsibility; and

(*iii*) the order of rotation in which the said co-sharers agree in writing,

[1] *Supra*, p. 631.

[2] Sections 17 to 22, both inclusive, were substituted for the original sections 17 to 22, both inclusive, by the Khoti Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904), s. 4, Vol. IV of this Code.

if they do so agree, to take the management of the village under the provisions of section 27 ; or,

or when the khotki is divided, each share treated separately.

(*c*) if a partition has been effected and the co-sharers of the khotkí hold their respective shares in severalty,—

(*i*) the extent and limits of each such separate share ; and

(*ii*) the same particulars in respect of the several sub-sharers, if any, of each such share as are required by clause (*b*) to be given concerning all the co-sharers when a khotkí is undivided.

Custody and Amendment of Records : Determination of Disputes.

Collector to keep records after survey-settlement completed. Power of Recording-officer to amend records with written consent of parties;

[1] **18.** (*1*) When the survey settlement of any village to which this Act extends is completed, the settlement-register and other records thereof shall be kept by the Collector.

(*2*) So long as the settlement-register and other records are in the charge of the Survey-officer, the said officer, and afterwards the Collector or any other officer whom the Governor in Council from time to time empowers in this behalf, may, in the cases specified in sub-section (*3*), but not otherwise save with the consent of the parties affected thereby given in writing before the Recording-officer, at any time amend, or cause to be amended, any entry in such register or records, whether by addition thereto, insertion therein, cancellation or other alteration thereof, as may be required ; and unless and until so amended, every entry made shall, as long as the survey-settlement for which it was made remains in force, continue to be applicable to the land referred to.

(*3*) The cases referred to in sub-section (*2*) are the following, namely :—

and in certain other cases.

(*a*) any clerical error, or any error which all the parties affected thereby admit to have been made in the same, may be corrected ;

(*b*) any entry which the Recording-officer is satisfied has been caused by mistake or obtained by means of fraud, misrepresentation or personation, or by other means amounting to an offence under the [2] Indian Penal Code, may be cancelled, and such other entry (if any) substituted therefor as the Recording-officer shall determine ; XLV of 1860.

(*c*) any entry which is rendered inapplicable or incorrect by any change of circumstances or transfer of rights or interests relating thereto may be cancelled or corrected, as the Recording-officer may deem fit ;

[1] *See* second footnote on p. 784, *supra*.
[2] *See* the reprint of the Code as modified up to 1st April, 1903.

(*d*) an entry of the description and amount of the rent payable by an occupancy-tenant may be inserted or altered in accordance with any of the provisions of rules IV and V under clause (*c*) of section 33; and

(*e*) subject to the provisions of section 20, any entry in respect of which the parties affected thereby may have obtained *inter se* a final decree of a Court of competent jurisdiction under section 21, shall be amended in accordance therewith, on an application, accompanied by a certified copy of such decree, being duly made to the Recording-officer for that purpose.

Disputes to be determined by Recording-officer.

[1]19. (*1*) If it appears to the Recording-officer that there exists any dispute as to any matter which he is bound to record, or as to any amendment proposed to be made under section 18, he may, either on the application of any of the disputant parties, or of his own motion, investigate and decide such dispute, and frame or amend the settlement-register or other record accordingly.

Notice and opportunity of being heard to be given to parties.

(*2*). No such decision and no amendment of any entry in the settlement register or other records shall be made until after due notice to the parties affected thereby, and without giving them an opportunity of being heard in respect thereto:

Proviso.

Provided that no such decision or amendment of an entry shall be deemed invalid merely for want of such notice or opportunity as aforesaid.

Remedy of party affected to whom no such notice or opportunity given.

(*3*) But any person affected by any such decision or amendment, to whom such notice or opportunity as aforesaid has not been given, may apply to the Recording-officer to have such decision or amendment cancelled or altered, as the circumstances of the case may require, and, subject to the provisions of sub-section (*2*), the Recording-officer shall re-investigate the matter and may, if he thinks fit, cancel or alter such decision or amendment accordingly.

Recording-officer's decision final in certain matters.

[1]20. (*1*) Subject to such orders as may be passed on appeal under sub-section (*2*) and to the provisions of sub-section (*3*), every entry in the settlement-register or other records made by the Recording-officer under section 16, 17 or 18, and purporting to record—

(*a*) the fact that the interest of any occupancy-tenant is or is not transferable otherwise than by inheritance, or

(*b*) the liability of each privileged occupant to pay rent of the description and amount entered,

shall, subject to the provisions of section 18, be conclusive and final evidence of the fact or liability so recorded.

[1] *See* second footnote on p. 781, *supra*.

subject to appeal to Governor in Council.

(*2*) Any person aggrieved by any such entry may, within one year of the making of the entry, appeal to the Governor in Council to have the entry altered, and the entry shall be altered if the orders passed on the appeal so direct, and the entry so altered in accordance with such orders shall be conclusive and final evidence in the manner and to the extent specified in sub-section (*1*).

Saving of pending civil proceedings.

(*3*) Nothing in this section shall affect proceedings pending in any Civil Court at the time when this section comes into force.

Recording-officer's decision when not final to be set aside only by a decree of Court.

[1] **21.** In any other matter the decision of the said Recording-officer shall not be open to appeal or revision, and shall be binding upon all the parties affected thereby until reversed or modified by a final decree of a competent Court:

Proviso in restraint of suits.

Provided that—

(*a*) no person shall be permitted in any Civil Court as a defendant or otherwise, to plead, whether directly or indirectly, that such decision or entry is erroneous or is not binding upon him, if such person is, at the date of the institution of the suit in which the question arises, debarred by the law of limitation for the time being in force from instituting a suit for, or with a view to, the reversal or modification of such decision or entry; and

(*b*) no fresh cause of action shall accrue in respect of

(*i*) a decision or entry made for the purpose of, or in the course of a revised survey-settlement, or

(*ii*) an amendment of an entry made under any of the provisions of section 18,

which makes no alteration affecting the substance of the previous decision or entry relating to the same subject-matter.

Bar of suits against Government or Government officers.

[1] **22.** No suit shall lie against Government or against any officer of Government to set aside any decision or order of a Survey-officer or other Recording-officer under this Part.

PART IV.

ADMINISTRATION OF SURVEY-SETTLEMENTS MADE UNDER THIS ACT.

Provisions of this Part when to apply.

23. The provisions of this Part shall not apply to any village to which this Act extends until such time as the Governor in Council first after the passing of this Act sanctions a survey-settlement or a revised survey-settlement of such village and declares the assessments settled thereunder fixed

[1] *See* second footnote on p. 781, *supra*.

for a period of years, in accordance with section 102 of the [1] Bombay Land-revenue Code, 1879.

Bom. Act V of 1879.

Until such time, the rights and responsibilities of all parties so far as regards the matters treated of in this Part shall continue to be such as they would be if this Part had not been enacted.

Khots' Jámá.

Jámá how to be calculated.

24. The jámá payable to Government by the khot shall be the aggregate of the survey-assessments of the lands of the village minus such percentage of deduction, if any, as Government may in each case direct.

Amount to be fixed for certain periods.

The amount of the said jámá shall be from time to time fixed for the same period for which the survey-assessments are fixed.

Managing Khots.

Abolition of khots' kabuláyats.

25. The annual kabuláyats hitherto executed by khots shall no longer be required from them :

Provided that nothing herein contained shall be deemed to affect the liability of khots to perform any condition of their tenure, or to do any act which they are now bound to perform or to do, or their obligation to refrain from doing anything which they are now bound not to do.

Appointment of "managing khot".

26. When a village is held by two or more co-sharers jointly, the said sharers shall be jointly and severally responsible for the jámá, but one of their number shall be nominated every year to receive the inferior holders' rents, to pay the Government dues, and generally to perform all acts required by this Act or by any other law or rule having the force of law, to be performed by the khot.

The sharer so nominated shall be called "the managing khot" and shall for all the purposes of the [1]Bombay Land-revenue Code, 1879, be deemed to be the registered occupant of all survey-numbers in the village not held by privileged occupants.

Bom. Act V of 1879.

Managing khot how to be nominated.

27. If the co-sharers have, at the time of the framing of the survey-settlement records or at any subsequent period, agreed in writing as to the order of rotation, the nomination of the managing khot shall be made by the Collector in the order so agreed upon.

In the absence of any such agreement, [2][or if the sharer whose turn

[1] *Supra*, p. 631.

[2] These words were inserted by the Khotí Settlement Act Amendment Act, 1904 (Bom. Act 8 of 1904), s. 5, cl.(*a*), Vol. IV of this Code.

it is to be nominated is for any reason unable to serve as managing khot, and fails to delegate his duties and powers under section 31A within such time as may be prescribed by the Collector in this behalf,] the co-sharers shall be called upon to nominate one of their number year by year, [1][or for the year, as the case may be,] and in the event of their failing so to do within such time as may be prescribed by the Collector in this behalf, or if they are not unanimous as to the nomination, the Collector shall either select the managing khot for the year, or cause the village to be attached and taken under the management of himself or any agent whom he appoints for that purpose in the manner provided in section 144 of the [2]Bombay Land-revenue Code, 1879. Bom. Act V of 1879.

Collector's nomination or selection not to be disputed.

28. [3] [The Collector's nomination or selection under section 27 shall be made by a written order, which shall not be open to appeal, and no suit shall lie against Government or against any officer of Government in respect of any such nomination or selection.]

But suits in respect to the right of management not barred amongst the khots themselves.

But it shall be lawful for any of the co-sharers at any time to sue for a decree *inter se* to declare which of them is entitled to the management, or the order in which they should respectively have the management, if more than one of them be entitled to the same; and from the commencement of the revenue year next after an application (accompanied by a certified copy of any such decree) is duly made to him for the purpose, the Collector shall nominate the managing khot in accordance with such decree.

Managing khot's certificate.

29. * * * * * * [4] The mámlatdár shall furnish every managing khot [5] [nominated or selected under section 27] with a certificate under his hand and seal to the effect that the holder thereof is the recognized managing khot for the year to which such certificate relates, and a certificate so signed and sealed shall be conclusive evidence of the right of the khot therein named to manage the village to which it relates for the year therein specified.

[1] These words were inserted by the Khoti Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904), s. 5, cl. (*b*), Vol. IV of this Code.

[2] *Supra*, p. 631.

[3] This paragraph was substituted by the Khoti Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904), s. 6, Vol. IV of this Code.

The original paragraph was as follows:—

"A managing khot nominated by the Collector under the last preceding section shall continue in that capacity throughout the year for which he is so appointed, and no suit shall lie against the Collector, or against Government, or any Government officer in respect of such nomination".

The words "Except as is hereinafter provided" were repealed by the Khoti Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904), s. 7, Vol. IV of this Code.

[5] These words were inserted by the Khoti Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904) s. 7, Vol. IV of this Code.

(*Part IV.—Administration of Survey-settlements made under this Act. Secs. 30-33.*)

Managing khot when there are no co-sharers.

30. When a village is held by a khot in his own sole right, he shall be deemed to be the managing khot thereof for all the purposes of this Act, and it shall not be necessary to furnish him with any such certificate as is described in the last preceding section.

Exclusive power of managing khot.

31. When a managing khot has been duly appointed under any of the foregoing provisions, he alone shall be entitled to assistance for the recovery of rent from privileged occupants under sections 86 and 87 of the [1]Bombay Land-revenue Code, 1879.

Bom. Act V of 1879.

Delegation of duties and powers by managing khot.

[2] **31 A.** It shall be lawful for the managing khot to delegate, subject to the approval of the Collector, the performance and exercise of all duties and powers, imposed or conferred upon him either by section 15 or by section 31, to any person duly empowered in writing by him in this behalf; and the person so appointed shall, in respect of the performance of the duties prescribed in section 15, be subject to all the liabilities to which the khot is subject under the said section.

Separated Sharers.

Separated sharers to be severally responsible for their respective shares.

32. When the khots have divided their khotkí or a partition thereof has been effected by the Civil Court, or otherwise, and the co-sharers hold their respective shares in severalty, the Collector shall determine the amount of jámá payable in respect of each separate share, and the holders of the said shares shall be held severally liable for the portions of the jámá so fixed on their respective shares, and all the provisions of this Act shall apply to them respectively as if they were independent holders of entire khotkís.

Privileged Occupants' Rents.

Nature and amount of rent payable by privileged occupants.

33. The rent payable to the khot by privileged occupants shall be as follows, namely:—

(*a*) by a dhárekari: the survey-assessment of his land;

(*b*) by a quasi-dhárekari: the survey-assessment of his land and in addition thereto the amounts of grain or money respectively set forth in the schedule; [3] * * *

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[1] *Supra*, p. 631.

[2] Section 31A was inserted by the Khotí Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904), *s.* 8, Vol. IV of this Code.

[3] The words "hereto annexed" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule is printed as an Appendix to the B General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

(Part IV.—Administration of Survey-settlements made under this Act. Sec. 33 —contd.)

[1](c) by any occupancy-tenant: in each case according to the terms of the entry in the survey-record made in respect thereof, and for the time being applicable thereto, under the following rules :—

Entry to show form of payment.

Rule I. Every such entry shall show whether any rent is payable and, if so, whether it is payable as—

(a) an amount fixed: that is to say, a certain amount, irrespective of the crop, payable in money or kind, or both; or

(b) a crop-share: that is to say, a fixed proportion of the gross annual produce of the land, and of the produce of fruit-trees (if any).

How and what entries are to be entered as determined by agreement.

Rule II. (1) Amounts fixed shall be entered as determined by agreement of the parties—

(a) at the time of framing the survey-record, if the Recording-officer is satisfied that they have then or at any time previous agreed that such amounts shall be the rent payable during any period subsequent to the introduction of the survey; or

(b) at any other time, on the parties appearing in person or by duly authorized agent before the Recording-officer and consenting to such entry.

No crop-share to be entered as determined by agreement.

(2) No crop-share shall at any time be entered as determined by agreement.

Meaning of the word 'parties.'

(3) In this rule the word 'parties' means, with reference to an agreement, the tenant and the person who at the time of the agreement is the managing khot:

How far, in an agreement with a tenant, a managing khot can bind a sharer or sharers in a khotkí.

Provided that if any sharer in a khotkí whose interest, or any number of such sharers the aggregate of whose interests, exceeds three-eighths of the entire khotkí, shall declare in writing delivered to the Recording-officer at the time of the nomination or appointment of a managing khot, or at any time during the tenure of his office by such managing khot, that the managing khot shall have no power to bind such sharer or sharers by an agreement

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[1] Cl. *(c)* was substituted by the Khotí Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904), s. 3, Vol. IV of this Code.

The original clause was as follows:—

"(c) by an occupancy-tenant: such fixed amount, whether in money or in kind, as may have been agreed upon or as may at the time of the framing of the survey-record, or at any subsequent period, be agreed upon between the khot and the said tenant;

or on the expiry of the term for which any such agreement shall have been, or shall be made, or if no such agreement have been, or be made, such fixed share of the gross annual produce of the said tenant's land, not exceeding one-half in the case of rice-land, nor one-third in the case of warkas-land, and such share, if any, of the produce of the fruit-trees on the said tenant's land, as the survey-officer who frames the survey-record, shall determine to be the customary amount hitherto paid by occupancy tenants in the village in which the said land is situate."

with any tenant specified in such writing, no agreement entered into after the delivery of such declaration, between such managing khot and such tenant, shall be binding on such sharer or sharers, unless—

(*a*) such sharer or sharers shall appear before the Recording-officer and assent thereto, or

(*b*) written notice of an intention to execute such an agreement has been sent at the cost of such managing khot or tenant through the Recording-officer by post in a registered cover addressed to such sharer or sharers, and such sharer or sharers shall, for a period of not less than three months after such notice has been sent as aforesaid, fail to appear before the Recording-officer and object to such agreement.

How entries other than those of amounts fixed by agreement are to be determined.

Rule III. If at the framing of the survey-record there appears to be no amount fixed by agreement of the parties, the Recording-officer shall,

(*a*) if he finds that a crop-share has theretofore been paid in accordance with the general custom of the village in respect of similar lands,

enter such crop-share ; or,

(*b*) if he finds in any case that the rent theretofore paid has been different in description or amount from that payable under the general custom of the village in respect of similar land therein, or that no such general custom is ascertainable,

enter the rent theretofore paid in such case, or, if such rent has not been uniform, the average of the rent paid or payable for such land during the twelve years last preceding his enquiry ; or,

(*c*) if he finds that a commuted-value of a crop-share has become payable under sub-rule (*1*) of rule V,

enter the commuted-value payable under sub-rule (*3*) of the same rule :

Limits of crop-shares.

Provided that no crop-share shall in any case be entered exceeding in the case of rice land one-half and in the case of warkas land one-third.

Rule IV. (*1*) If in any case—

Power to make or alter entries in case of omission of entry at

(*a*) no entry has been made at the introduction of a survey-settlement, or

(*b*) the entry made has, by reason of a decree of a competent Court or of any change in the tenant's mode of cultivation or otherwise,

settlement or on account of entry ceasing to be applicable;

ceased to be applicable, wholly or in part, to the land in respect of which it was made,

and no amount fixed by agreement has been subsequently entered,

the Recording-officer may determine and enter, or alter the entry already made in respect of, the rent payable, as if he were acting under rule III.

or when tenant holding on special conditions of service ceases to render such service;

(*2*) If any land is held wholly or partly in consideration of services to be rendered by the tenant to the khot or to the village community, or for the benefit of any class thereof, the Recording-officer shall, upon proof that such services are no longer rendered, determine and enter the rent which would have been leviable, but for such total or partial exemption.

or when amount fixed is no equal to sum of survey-assessment and local fund cess together with a percentage thereon,

(*3*) If in respect of any land, other than land which is entered as held rent-free, the amount fixed, or in the case of crop-shares the commuted-value which has been, or might be, under rule V entered as payable, is less than the total sum representing the survey-assessment and local fund cess recoverable from the khot in respect thereof, together with twenty-five per centum of such assessment and local fund cess (hereinafter called "the percentage"), the Recording-officer shall, on the application of either of the parties, raise such amount fixed or commuted-value to such total sum or the equivalent thereof in kind, and shall alter the entry accordingly:

subject to proportionate reduction, if Government defrays whole or part of the percentage;

Provided that the Governor in Council may, during the period of the survey-settlement in force at the commencement of the [1] Khoti Settlement Act Amendment Act, 1904, by general or special orders in this behalf, direct that the whole or part of the percentage shall during the remainder of such period be defrayed by Government; and so long as such defrayal continues, the rent payable by the tenant to the khot under the provisions of this sub-rule shall be reduced to the extent of the amount so defrayed, and a note shall be inserted by the Recording-officer in the altered entry accordingly. Bom. Act III of 1904.

or when the assessment has been remitted or reduced on account of injury to the land.

(*4*) If the survey-assessment fixed on any survey-number has been reduced or struck off on account of diluvion, deterioration by floods or other cause beyond the control of the occupancy-tenant, the Recording-officer shall reduce the total amount fixed, or in the case of crop-shares the total commuted-value (if any), which

[1] Vol. IV of this Code.

has been entered as payable for the portion of that number in such tenant's occupancy, by an amount bearing to that total amount or commuted-value the same proportion as the amount of assessment remitted or struck off bears to the total assessment for the entire area in his occupancy, and shall make an entry in the record specifying—

(*a*) the reduced amount, and

(*b*) the limit of time for which it is without further entry to hold good.

When entry of commuted value of crop share may be made, and effect of such entry.

Rule V. (*1*) On an application made on or before the first day of May in any year by any tenant, whose rent is payable wholly or partly as a crop-share, the Recording-officer shall fix and enter the commuted-value of the whole of such crop-share, and such commuted-value shall thenceforth, subject to the provisions of sub-rule (*3*), be payable, with effect from the commencement of the next ensuing revenue-year, by the tenant in lieu of the whole crop-share hitherto payable by him.

Meaning of 'commuted-value' and how fixed.

(*2*) In this rule 'commuted-value' means the average money-value of the produce payable, and the Recording-officer shall, in the absence of any satisfactory evidence to the contrary, take, as a standard for estimating such money-value, a half crop-share as equivalent to three multiples of the survey-assessment, fixed on the land, a third crop-share as equivalent to two multiples of such assessment, and any other crop-share as equivalent to a proportional multiple of such assessment:

Proviso as to warkas land used for ráb manure.

Provided that the commuted-value of the produce payable on any warkas land entered in the records existing on the day when this rule comes into operation, as land actually used for the purpose of ráb manure in connection with rice cultivation, shall not exceed an amount equal to the survey-assessment on such land.

Commuted-value subject to revision at a revised survey-settlement.

(*3*) Where a commuted-value has become payable under sub-rule (*1*), the Recording-officer shall at a revised survey-settlement revise the commuted-value in accordance with the provisions of sub-rule (*2*) with reference to the revised survey-assessment fixed on the land, but shall not alter the description of the rent so payable.

Privileged occupants' rents how and when to be paid.

34. The rents due by privileged occupants shall be payable on such dates, in such instalments, and subject to such rules not inconsistent with the provisions of this Act, as may from time to time be prescribed in this behalf by the Governor in Council.

Cesses, etc.

Abolition of all cesses, etc.

35. It shall not be lawful for any khot to levy *phaski, veth, nangarveth, wartala,* or any other cess, rate, tax or service of any description or denomination whatsoever, from any privileged occupant other than the rent lawfully leviable under the provisions of this Act.

Local Fund Cess.

Khot's liability for local fund cess.

36. Local fund cess at such rate as shall from time to time be fixed by Government under section 6 of the [1]Bombay Local Funds Act, 1869, shall be leviable by Government from the khot on every rupee of his jámá. Bom. Act III of 1869.

Dhárekaris and quasi-dhárekaris to what extent liable for the cess.

The khot shall be entitled to assistance under sections 86 and 87 of the [2]Bombay Land-revenue Code, 1879, for recovery of the said cess at the said rate from dhárekaris and quasi-dhárekaris on every rupee of the survey-assessment of the lands in their respective holdings. Bom. Act V of 1879.

Other inferior holders not liable for the cess.

Inferior holders of khotí lands shall not be liable to local fund cess, anything contained in section 8 of the [1]Bombay Local Funds Act, 1869, to the contrary notwithstanding. Bom. Act III of 1869.

PART V.

MISCELLANEOUS.

Existing survey-settlements confirmed.

37. Existing survey-settlements of the land-revenue of any village to which this Act extends, made, approved and confirmed under the authority of the Governor in Council, shall be deemed to have been lawfully made, and, except as is hereinafter otherwise provided, shall continue in force for the terms for which they have been respectively guaranteed, subject to all the provisions of law which would be applicable thereto if this Act had not been passed, and anything in this Act which is inconsistent with any of the said provisions shall be deemed not to apply to such settlements.

New settlements may be substituted for existing settlements.

38. Upon the expiry of the period of any such guarantee, or, if it shall appear to the Governor in Council that a majority of the land-holders affected by any such guarantee so desire, at any time previous to the expiry of the said period (such time being fixed by the Governor in Council), a new survey-settlement shall be introduced into the village in which such guarantee was in force, and the provisions of this Act shall thenceforward apply to the said settlement, anything in any other law to the contrary notwithstanding.

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[1] *Supra*, p. 492.
[2] *Supra*, p. 631.

Bombay Land-revenue Code, 1879, how far inapplicable to khotí villages.

39. Nothing in sections 68, 72, 73, 74, 99, clause (*b*), 104, paragraph 2, Bom. Act V of 1879. [1][109, 110], 112, 150, clause (*b*), and 153 of the [2]Bombay Land-revenue Code, 1879, shall be deemed to apply to any village to which this Act extends.

The provisions of the said Code when applied to any such village shall be subject to the following modifications, namely:—

(*a*) when a survey-settlement is being introduced under section 103, the rent payable by each privileged occupant, and the amount of jámá payable by the khot shall be announced in lieu of the assessment fixed on each survey-number;

(*b*) sections 118, 119 and 123 shall be read and understood as if the word "khots" were substituted for the words "patels and other village-officers", and the words "village-officers" and the words "village-officers and servants", wherever they occur;

(*c*) the khot shall for the purposes of section 136 be deemed to be the person primarily responsible to Government for the jámá of his village;

(*d*) the word "alienated" in clause (*f*) of section 150 shall be deemed to be omitted; and,

(*e*) if such village is under attachment at the date of this Act coming into force, applications may be made under section 162 for the restoration thereof at any time within twelve years from the first day of August next after such date.

Rules to be made by Governor in Council.

40. The Governor in Council may, by notification in the *Bombay Government Gazette*, from time to time frame, and from time to time vary or rescind,[3] rules not inconsistent with the provisions of this Act—

(*a*) for the inspection and appraisement of crops when the rent payable to a khot consists of a share of the produce of a privileged occupant's land;

(*b*) for determining what land is dhára land;

(*c*) for allotting to each privileged occupant, when the exact limits of his warkas holding are not ascertainable, such portion of the entire warkas land of the village or such rights or privileges in respect of any warkas land, or both a portion of the entire warkas

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[1] These figures were inserted by the Khotí Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904), s. 10, Vol. IV of this Code.

[2] *Supra*, p. 631.

[3] For rules, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, pp. 575 and 595 to 597.

land and such rights or privileges in respect of any other such land as may be fair and reasonable;

(*d*) determining to what extent, if any, any[1] rule, or order made under section 214 of the [2] Bombay Land-revenue Code, 1879, shall be applicable to villages to which this Act extends; Bom. Act V of 1879.

(*e*) for the furtherance of the objects of this Act in matters not expressly provided for therein;

(*f*) generally for the guidance of all persons in matters connected with the enforcement of this Act.

Government may constitute uncultivated land a reserved forest.

41. And whereas it is necessary in the general interests of the people to enable Government to promote the extension of forests in villages held by khots; it is hereby enacted that Government may at any time constitute any uncultivated land in any village to which this Act extends, or may hereafter be extended, a reserved forest[3] [in accordance with the procedure enacted in Chapter II of the [4] Indian Forest Act, 1878]. But nothing in this section contained shall derogate from any rights conferred by any sanad or other grant made by any lawful authority. VII of 1878.

Explanation.—For the purposes of this section "uncultivated land" means land which has not been tilled for a period of twenty years next before the 1st June, 1879, or the date of the order constituting such reserved forest.

Reserved forest constituted under last preceding section to be subject to provisions of Indian Forest Act.

42. Every reserved forest constituted under the last preceding section shall be subject to all the provisions of the [4]Indian Forest Act, 1878, and of any other law relating to forests for the time being in force: provided— VII of 1878.

(*1*) that, upon the condition of duly performing such service connected with such forest as shall from time to time be prescribed by Government, the khot shall be entitled to a share of one-third of the net profits derived by Government from such forest after deducting the cost of management;

(*2*) that, in the event of the service prescribed by Government as aforesaid not being duly performed by the khot, the provisions of section 80 of the [4] Indian Forest Act, 1878, shall be applicable. VII of 1878.

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[1] For rules under this clause, *see* Bombay Local Rules and Orders, Ed. 1898, Vol. II, p. 597.

[2] *Supra*, p. 631.

[3] These words were inserted by the Khoti Settlement Act Amendment Act, 1904 (Bom. Act 3 of 1904), s. 11, Vol. IV of this Code, with retrospective effect from the date of the commencement of this Act.

[4] *See* the reprint of the Act as modified up to 1st December, 1903.

SCHEDULE.

(*See section 3, clause 7, and section 33.*)

Denomination of quasi-dhárekaris.	Excess amount of rent payable for every Rupee and proportionately for every fraction of a Rupee of the Survey-Assessment in respect of		
	Rice lands.	Warkas lands.	Bágáyat or Rábi lands.
Daspatkari . .	2 annas . . .	2 annas . . .	2 annas.
Dupatkari . .	½ maund of rice in the husk.	5¼ pailis of grain (half *nachani* and half *vari*).	8 annas.
Didpatkari or Didiwala	3 pailis of rice in the husk.	2 pailis of grain (half *nachani* and half *vari*).	3 annas.
Paune dupatkari .	6 pailis of rice in the husk.	4 pailis of grain (half *nachani* and half *vari*).	6 annas.

BOMBAY ACT No. I of 1881.[1]

[*9th April, 1881.*]

Bom. VI of 1879.

An Act to amend the Bombay Port Trust Act, 1879.

[Note.—The amendments made by this Act are incorporated in Bom. Act VI of 1879, *supra*, p. 710.]

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1881, Pt. V., p. 7; and for Proceedings in Council, *see ibid*, p. 19.

BOMBAY ACT No. III OF 1881.[1]

[*18th August, 1881.*]

An Act to further amend the Bombay Port Trust Act, 1879. Bom. VI of 1879.

[NOTE.—The amendments made by this Act are incorporated in Bom. Act VI of 1879, *supra*, p. 710.]

BOMBAY ACT No. IV OF 1881.[2]

[*13th October, 1881.*]

An Act to provide for the appointment and maintenance of Village-officers in Sindh.

WHEREAS it is expedient to make provision for the appointment and maintenance of village-officers in the Province of Sindh ; It is enacted as follows:—

Short title.

1. This Act may be cited as the Sindh Village-officers Act, 1881.

Extent.

It extends to the whole of the Province of Sindh.

"Village-officer" defined.

2. In this Act "village-officer" means any person appointed under this Act whose duty it is to collect, or to supervise the collection of, the revenue of a village or to perform Police-duties, or both [3] [and includes Supervising, Probationary, Special and Naib Tapedárs, Zabits, and Kotárs or Tapedárs' peons.]

Appointment of village-officers.

3. Subject to the general orders of Government, the Commissioner in Sindh[4] [or other authority prescribed by rule under section 8] may from time to time—

(*a*) appoint any person to be a village-officer, and

(*b*) cancel any such appointment.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1881, Pt. V, p. 63 ; and for Proceedings in Council, *see ibid*, p. 66.

[2] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1881, Pt. V, p. 24 ; for Report of the Select Committee, *see ibid*, p. 37 ; and for Proceedings in Council, *see ibid*, pp. 35, 54 and 65.

[3] The words originally added at the end of s. 2 as shown in brackets were "and includes Kotárs or Tapedárs' peons." They were added by the Sindh Village-officers Amendment Act, 1888 (Bom. Act 2 of 1888), Vol. III of this Code. Subsequently for some of the words, *viz.*, "Kotárs or Tapedárs' peons," thus added the words "Supervising, Probationary, Special and Naib Tapedárs, Zabits and Kotárs or Tapedárs' peons," were substituted by Bom. Act 2 of 1898, Vol. IV of this Code.

[4] These words were added by the Sindh Village-officers Amendment Act, 1888 (Bom. Act 2 of 1888), s. 2, Vol. III of this Code.

Every person so appointed shall hold office under such designation and for such period, and shall exercise his functions within such local area, as shall be prescribed by the said Commissioner.

Grant of hereditary office.

4. The said Commissioner may, with the previous sanction of Government, confer the office of village-officer upon any person and his descendants hereditarily. When any office is so conferred, the succession thereto, and the right to officiate or to nominate an officiator, shall be determined under such rules as may from time to time be prescribed by Government in this behalf under section 8 of this Act.

Village-police-officers.

5. Any village-officer may, if the Commissioner in Sindh so directs, be appointed by the Magistrate of the district to be village-police-officer, and in such capacity shall exercise all the powers and perform all the duties conferred and imposed by the [1] Bombay Village Police Act, 1867, on a Police-patel, and when any such appointment is made, and so long as it continues, the provisions of the said Act and of the enactments by which it has been amended shall, with such exceptions, if any, as Government shall from time to time direct, be deemed to be in force in the local area to which such officer's jurisdiction extends :

Bom. VIII of 1867.

Provided always that no village-officer shall exercise any of the powers mentioned in sections 15 and 16 of the said Act, unless expressly empowered in this behalf by a commission duly issued to him under the said section 15.

6. [*Levy of cess for the purpose of this Act.*]. *Rep.* [2] *Act IV of 1907.*

Village-officer not to mortgage, charge, lease or alienate salary or other remuneration granted under this Act.

7. It shall not be competent to any village-officer appointed under this Act to mortgage, charge, lease or alienate any salary or other remuneration to which he may be entitled as such officer ; and the Collector shall refuse payment of the salary, or of any portion thereof, to any person claiming the same in virtue of any such mortgage, charge, lease or alienation, and may withhold or resume any other remuneration assigned to the village-officer which has been so mortgaged, charged, leased or alienated.

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[1] *Supra*, p. 478.
[2] Vol. I. of this Code.

Rules.

8. The Commissioner in Sindh may, with the previous sanction of Government, from time to time, make [1] rules consistent with this Act—

[2] (*a*) determining the duties of the different village-officers, and the authority by whom appointments of such officers may be made and cancelled ;

[2] (*b*) fixing the salaries and other remunerations of village-officers, and regulating the payment of pensions, gratuities or compassionate allowances on retirement to such classes of them and under such conditions as may appear expedient ;

(*c*) regulating the punishment, suspension and dismissal of village-officers ;

(*d*) prescribing, in the case of hereditary village-officers, the order of succession, the authority by whom the right of succession shall from time to time be determined, the conditions under which the right of personal service will be admitted, and when and by whom a deputy may be appointed to officiate ;

(*e*) determining the circumstances under which any hereditary office may be forfeited or resumed ; and

(*f*) generally for carrying out the provisions of this Act.

BOMBAY ACT No. V OF 1881[3].

[*14th November, 1881.*]

An Act to amend the law relating to Tolls on Roads and Bridges in the Presidency of Bombay.

[NOTE.—The amendments made by this Act are incorporated in Bom. Act III of 1875, *supra*, p. 544.]

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[1] For rules under this section, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. CXXX.

[2] Clauses (*a*) and (*b*) were substituted by the Sindh Village-officers Amendment Act, 1888 (Bom. Act 2 of 1888), s. 4, Vol. III of this Code.

The original clauses were as follows :—

"(*a*) determining the duties of any village-officer appointed under this Act ;
(*b*) fixing the salaries and other remunerations of any such officer."

[3] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1881, Pt. V, p. 60 ; and for Proceedings in Council, *see ibid*, p. 66.

BOMBAY ACT No. II OF 1882[1].

[*29th March, 1882.*]

An Act to amend Bombay Act II of 1874.

WHEREAS it is expedient to abolish the fund called "The Civil Jail Fund" and to provide for the disposal of subsistence-money remaining in hand on the death or release of prisoners in the civil jail, and for this purpose to amend Bombay Act II of 1874; It is enacted as follows :—

[NOTE.—The amendments made by this Act are incorporated in Bom. Act II of 1874, *supra*, p. 514.]

BOMBAY ACT No. III of 1882[2].

[*29th March, 1882.*]

An Act to amend the Bombay and Karáchi Vaccination Acts.

Bom. I of 1877 and IV of 1879.

[NOTE.—The amendment made by this Act is incorporated in Bom. Acts I of 1877 and IV of 1879, respectively, *supra*, p. 569 and p. 609, respectively.]

BOMBAY ACT No. VII OF 1882[3].

[*18th November, 1882.*]

An Act to provide for the levy of fees for the use of Public Landing-places.

Preamble.

WHEREAS it is expedient to provide for the levy of fees for the use of public landing-places in certain ports in the Bombay Presidency; It is hereby enacted as follows :—

Short title.

1. This Act shall be called the Bombay Landing and Wharfage Fees Act, 1882.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1882, Pt. V, p. 2; and for Proceedings in Council, *see ibid*, p. 8.

[2] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1882, Pt. V, p. 3; and for Proceedings in Council, *see ibid*, p. 8.

[3] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1881, Pt. V, p. 41; and for Proceedings in Council, *see ibid*, p. 47.

Local extent.

2. [It shall extend to any ports][1] in the Presidency of Bombay to which the Governor in Council may from time to time, by notification in the Bombay Government Gazette and other local official Gazette, extend the Act.

Repeal of Bombay Act III of 1879.

3. Bombay Act III of 1879 is hereby repealed, and all fees levied and every declaration, appointment or rule made under that Act shall be deemed to have been levied and made under this Act.

"Landing-place" and "Commissioner" defined.

4. In this Act the term "landing-place" includes a bandar, wharf, pier, jetty, hard and any place used for the landing, shipping, wharfage, cranage or storage of goods;

and the term "Commissioner" shall include[2] * * * * * * the Chief Customs-authority for the Presidency of Bombay.

The Governor in Council to fix limits of bandars, etc., and the fees to be levied.

5. It shall be lawful for the Governor in Council from time to time, by notification in the Bombay Government Gazette and other local official Gazette,—

(*a*) to define the limits of any port to which this Act is made applicable when such limits have not been defined under the [3]Indian Ports Act, 1875;

(*b*) to determine what are public landing-places to which the provisions of this Act shall apply;

(*c*) to determine the limits of any such landing-place;

(*d*) to withdraw this Act from any port in which it is for the time being in force;

(*e*) to fix the fees to be levied—

(1) for the landing, shipping, wharfage, cranage, storage or demurrage of goods at, and

(2) for permitting animals or vehicles to bring or remove goods to or from, or to ply for hire at, and

(3) for permitting vessels or boats to approach or lie alongside, any such landing-place:

Provided that it shall be lawful for the Governor in Council at any time to exempt any goods, vessels, boat, animal or vehicle, either wholly or partially, from any fee to which the same may be liable under this section.

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[1] These words were substituted for the words "It shall extend—(*a*) to the Ports of Karachi and Aden; (*b*) to any other ports" by the Amending Act, 1895 (Act 16 of 1895), Second Schedule, Vol. I, p. 226.

[2] The words "the Commissioner in Sind, the Political Resident at Aden and" were repealed by the Repealing and Amending Act, 1895 (Act 16 of 1895).

[3] *See* now the Indian Ports Act, 1889 (10 of 1889), s. 2, as modified up to 1st April, 1901.

Powers and duties under this Act by whom to be exercised and performed.

6. The levy of fees under this Act shall be made, and all other powers and duties conferred and imposed by this Act or by any bye-laws made hereunder shall be exercised and performed, by such officers as the Governor in Council shall from time to time direct, or by such persons as he shall from time to time direct in this behalf.

Powers, privileges and liabilities of officers who collect fees.

7. The officers and persons whose duty it may be to levy fees under this Act shall have the same powers for collecting and enforcing payment of the same as are exercisable under the provisions of any law [1] for the time being in force in respect of duties of sea-customs by the Collector of Customs and his subordinates, and shall have the same privileges and be subject to the same liabilities in respect of anything done by them in collecting and enforcing payment of the said fees as the said Collector of Customs and his subordinates have, or are liable to, under the provisions of any such law.

Punishment of offenders.

The law [1] for the time being in force for the punishment of offences relating to the levy or payment of duties of sea-customs, and for the reward of informers, shall, as far as may be, apply to similar offences committed in respect of the said fees.

Tables of fees to be posted up.

8. Tables of the fees leviable under this Act shall be posted up in some conspicuous position at every landing-place at which such fees are leviable, in English and the Vernacular language of the district, province or territory in which the port is situate.

Power to make bye-laws.

9. The Commissioner may, within the district, province or territory under his charge, and, in respect of any other port or ports to which the provisions of this Act may hereafter be extended, the Chief Customs-authority for the Presidency of Bombay may, with the previous sanction of Government, from time to time make, and from time to time alter or repeal, bye-laws not inconsistent with the provisions of this Act—

(*a*) regulating the use of every landing-place to which this Act applies ;

(*b*) providing for the management of the traffic over, on or about and to and from, every such landing-place ; and

(*c*) generally for the guidance of all persons in matters connected with the enforcement of this Act.

The bye-laws so made, and every alteration of the same and every order repealing the same or any portion thereof, shall be published in the Bombay Government Gazette and other local official Gazette.

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[1] *See* the Sea Customs Act, 1878 (Act 8 of 1878), as modified up to 1st February, 1904.

Fees realized under this Act how to be applied.

10. The proceeds of all fees realized under this Act in any port to which this Act applies shall be applied in such port—

(*a*) in payment of the expenses of the administration of this Act :

(*b*) in defraying the cost of acquiring or constructing new landing-places required for the convenience of the trade of such port ;

(*c*) in maintaining and improving any existing landing-place and generally in the improvement of such port.

Yearly accounts to be published.

Accounts of all receipts and expenditure under this Act shall be published once in every year in the Bombay Government Gazette and other local official Gazette.

11. [*Validation and Indemnity.*] *Rep. Act XVI of 1895.*

BOMBAY ACT No. I OF 1883 [1].

[*10th April, 1883.*]

An Act to provide Funds for maintaining Provincial Roads used for local purposes.

Preamble.

WHEREAS it is expedient to provide additional funds for the construction and proper maintenance and repair of public roads in or near stations which are chiefly used by the residents for purposes of local convenience, as, for example, for intercommunication, pleasure driving or riding, other than for military purposes or for purposes connected with agricultural operations of petty trade, dealing or industry, and which are not provided for out of imperial, municipal or cantonment funds ; It is hereby enacted as follows :—

Short title.

1. This Act shall be cited as the Bombay Highway Act, 1883, and it shall come into force in the manner provided in the next following section.

Local extent.

2. This Act shall extend to the whole of the territories administered by the Bombay Government, but shall not come into force anywhere within the said territories until the Governor in Council may, by notification in the Bombay Government Gazette, apply [2] the same to any local area to be specified in such notification within the said territories ; and the Governor in Council may, in like manner, amend or cancel any such notification.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1882, Pt. V, p. 53 ; for Report of the Select Committee, *see ibid*, 1883, p. 1 ; and for Proceedings in Council, *see ibid*, 1882, p. 65, *ibid*, 1883, p. 8.

[2] For notifications applying this Act to local areas in the Presidency, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, pp. 598 to 600.

Imposition of tax on carriages, etc., in notified area.

3. It shall be lawful for the Governor in Council, after the publication of the notification referred to in the last preceding section, to levy[1] a tax on all carriages, coaches, vans, carts, hackeries, horses or ponies in accordance with the rates specified in the schedule[2] * * * * from all persons owning or having charge of the same, who are resident within the local area so notified : Provided—

(*a*) that the Governor in Council may reduce, alter or modify this tax as he may deem fit, but may not increase the rates specified in the said schedule ;

(*b*) that any person who may have owned or had charge of any vehicle or animal as aforesaid kept for use within such local area for a period exceeding fifteen and not exceeding thirty consecutive days shall be liable only to one-third of the tax for that quarter, and for any period of a quarter exceeding thirty consecutive days shall be liable for the whole tax of that quarter ;

(*c*) that no tax shall be leviable in respect of any vehicle or animal as aforesaid which shall have been out of use for the whole period contained in any quarter on due notice in writing being given by the owner in accordance with the rules of assessment hereinafter provided for in section 4 * * *[3].

For the purposes of this section the word "resident" means and includes any person who dwells or takes up his abode in a local area notified under this Act for a period exceeding fifteen days.

Rules to be framed for the levy of the tax.

4. It shall be lawful for the Governor in Council, from time to time to make[4] rules for the assessment and recovery of the tax referred to in the last preceding section, which shall be published in the Bombay Government Gazette, and such rules may be general for all areas notified under the provisions of section 2 * * *[5] or special for any one or more such areas, according as the Governor in Council directs, and it shall be lawful for the Governor in Council at any time to amend or cancel such rules.

The tax not leviable in a municipality

5. Whenever in any municipality or cantonment, within any local area notified under this Act, a tax on vehicles and animals is levied within the

[1] For notifications levying taxes on vehicles, etc., *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, pp. 600 and 601.

[2] The words "annexed to this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

[3] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886).

[4] For rules for the assessment and recovery of taxes, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, pp. 601 to 607.

[5] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), as amended by Bom. Act I of 1891, s. 2 (*a*).

or cantonment where a tax on vehicles and animals is already levied.

limits of such[1] [municipality] or cantonment, under the authority of any law for the time being in force therein, the tax imposable under section 3 * * * shall not be levied within such limits ; but such contribution which, under any law for the time being in force, may be made out of the funds of any such municipality or cantonment to provincial or local funds, as shall, in the opinion of the Governor in Council, be deemed a just and proper share towards meeting the expenses of maintaining provincial roads which are not provided out of such municipal or cantonment funds, but which are calculated to benefit the residents within the limits of such municipality or cantonment, may be applied in the manner prescribed for the application of the proceeds of the tax imposed under section 3 * * * [2].

Application of proceeds of the tax.

6. The proceeds of the tax in each area where such tax has been lawfully imposed under the provisions of this Act shall be credited to provincial or local funds as the Governor in Council shall direct : Provided always that the proceeds of such tax levied within or contributed by any cantonment as defined by [3] Act III of 1880 shall only be applied in conformity with [4] section 23 of that Act.

Tolls under Bombay Act III of 1875 not to be levied in local areas notified under this Act.

7. No tolls leviable under [5] Bombay Act III of 1875 shall be levied within any local area notified under this Act.

Saving provisions.

8. Nothing in this Act shall be deemed to apply to or include any vehicles or animals as aforesaid belonging to the Government, or vehicles kept for sale by *bonâ fide* dealers and not used for any other purpose;

or shall apply to any persons who are specially exempt from municipal taxation under any rules or law for the time being in force, or to any persons whom the Governor in Council may by an order in writing [6] exempt from the tax imposable under section 3 * * *[2];

or shall apply to any person who earns his livelihood wholly or principally by agriculture carried on within the district within the limits of which the

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[1] The word "municipality" was substituted for "municipalities" by the Amending Act, 1895 (16 of 1895), Second Schedule Vol. I, p. 226.

[2] The words "of this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

[3] *See* now the Cantonments Act, 1889 (13 of 1889), General Acts, Vol. V. by which Act III of 1880 was repealed.

[4] *See* now s. 21 of the Cantonments Act, 1889 (13 of 1889).

[5] Tolls on Roads and Bridges Act, 1875 (Bom. Act 3 of 1875), *supra*, p. 544.

[6] For notifications exempting persons from the tax, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. 607.

local area to which this Act may be applied is situated, or to any class of persons carrying on any petty trade, dealing or industry in such local area which the Governor in Council may, from time to time, by notification in the Bombay Government Gazette, [1] exempt from the tax imposable under section 3 * * * [2].

SCHEDULE.

(*Referred to in section 3 of this Act.*)

TAX ON CARRIAGES, COACHES, VANS, CARTS, HACKERIES, HORSES AND PONIES.

1. For every four-wheeled vehicle on springs ...	a rate not exceeding	Rs.	10	per quarter.
2. For every two-wheeled vehicle on springs ...	ditto	„	6	ditto.
3. For every cart or hackery drawn by bullocks ...	ditto	„	6	ditto.
4. For every horse, or pony of the height of 12 hands or upwards ...	ditto	„	5	ditto.

THE KARÁCHI TRAMWAYS ACT, 1883.

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[1] For notifications exempting persons from the tax, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. 607.

[2] The words "of this Act," were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

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SCHEDULE.

BOMBAY ACT No. II OF 1883.[1]

[*10th April, 1883.*]

An Act to authorize the making and to regulate the working of Street Tramways in Karáchi.

Preamble.

WHEREAS the Commissioners of Karáchi Municipal District, hereinafter called the Municipality, by an agreement dated the 21st day of April, 1882, for the considerations therein expressed, granted to Edward Davis Mathews, and his assigns, hereinafter called the grantee, the right to construct, maintain and use a tramway or tramways in Karáchi upon the terms and in the manner mentioned in the said agreement, a copy whereof is set forth in the schedule * * *[2];

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1882, Pt. V, p. 83; and for Proceedings in Council, *see ibid*, 1883, p. 7.

[2] The words "to this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

and whereas the said grantee is desirous of being empowered to construct the several street tramways in the said agreement and in this Act particularly described, and also such other tramways between such other places in Karáchi and the suburbs of Karáchi, and by such other routes, as may hereafter be approved;

and whereas the objects of this Act cannot be attained without the authority of the Legislature;

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Karáchi Tramways Act, 1883:

Commencement.

and it shall come into force from the date on which it may be published in the Sindh Official Gazette with the assent of the Governor General.

Meaning of "tramway."

2. In this Act, unless there be something repugnant in the subject or context, "tramway" means a tramway constructed under this Act.

Tramways may be made in accordance with the agreement between the Municipality and the grantee.

3. Subject to the provisions of this Act, and of the said agreement, so far as the same is not inconsistent with anything in this Act, the grantee may make and maintain in Karáchi a tramway or tramways, with single or double lines, and with all necessary sidings, turnouts connections and lines (but in the case of sidings and turnouts only in such places as the Municipality may sanction) on the following routes and between such other places and by such other routes as may be hereafter approved by the Municipality and sanctioned by the Commissioner in Sindh:—

1st, a tramway from a point opposite the carriage stand on the Old Post Office Square, Sadr Bázar along Preedy Road, Garden Road and Bandar Road to Keamari, and

2nd, from a point opposite the City Station of the [1] Sindh, Punjab and Delhi Railway to the Native Jetty crossing the afore-named line to Keamari at a point near the junction of the McLeod and Bandar Roads.

Application of Act to suburban tramways,

4. In the event of any other tramway or tramways on other routes in Karáchi, or in the suburbs of Karáchi, being from time to time approved by the Municipality for the said suburbs, as the case may be, and sanctioned by Government and undertaken by the grantee, notice thereof, specifying the routes so approved of, and, in the case of suburban tramways, a copy of the agreement entered into between the said Municipality and the grantee in respect thereof, shall thereupon be published [2] in the Sindh Official Gazette, and upon such publication all the provisions of this Act, so far as the same may be

[1] Now known as the North-Western Railway.

[2] For notifications authorizing the construction of a new line of tramway, *see*, Bombay Local Rules and Orders, Vol. II, Ed. 1898, pp. 607 to 610.

applicable, shall apply to the tramway or tramways in such publication specified, and all works and things connected with the same or incidental thereto as if the said routes had been particularly specified in this Act, and as if the agreement, if any, in reference thereto had been included in the schedule.

[1] * * *

Form in which tramways are to be constructed and maintained.

5. Every tramway shall be constructed on a gauge not exceeding four feet, or on such lesser gauge as may be agreed upon between the Municipality and the grantee, and shall be laid and maintained in such manner that the uppermost surface of the rails shall be on a level with the immediately adjacent surface of the road; and before the work of construction is begun the drawings and specification showing the proposed construction of each tramway shall be submitted to the Municipality and be approved by them, and the cars and carriages intended to run on the tramways shall also be of such construction and furnished with such brakes and other appliances as shall have been approved by the Engineer to the Municipality. No vehicle used on any tramway authorized under this Act shall extend beyond the outer edge of the wheels of such carriage more than fourteen inches on each side.

No tramway to be opened without certificate from Engineer.

6. No tramway shall be opened for public traffic until the same has been inspected and certified by the Engineer to the Municipality to be fit for such traffic.

Carriages how to be worked.

7. The cars and carriages of the grantee on the lines of the tramway shall be worked with such power, animal or mechanical, as the grantee may think suitable: Provided that no steam-carriages shall be used without the special consent of the Municipality, to be obtained in special general meeting of the Commissioners, and without the sanction of the Governor of Bombay in Council.

Grantee may use tramway carriages with flange wheels.

8. The grantee may use on his tramways carriages with flange-wheels or wheels suitable only to run on a grooved rail, and subject to the provisions of this Act, and of the hereinbefore recited agreement, he shall have the exclusive use of his tramways for carriages with flange-wheels or other wheels suitable only to run on a grooved rail.

Grantee may fix and demand fares.

9. The grantee shall have power from time to time to fix the rates of fares for carrying passengers and goods in the said cars or carriages, and may demand and take the same for every passenger travelling upon any of his tramways, or for the carriage of goods by his tramways: Provided that the rate of fare for each person or parcel shall, for any distance not exceeding

[1] The words "to this Act" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been printed as an appendix to the Bombay General Clauses Act, 1904 (Bom. Act of 1904), Vol. IV of this Code.

three miles, not exceed four annas, and for any greater distance shall not exceed the same proportion.

Printed list of fares, etc., to be placed in carriages.

10. A printed list in English, Arabic, Sindhi and Gujaráthi of all the fares and charges authorized by this Act to be taken, and a printed copy in the same languages of all [1] bye-laws in force as hereinafter mentioned, shall be exhibited in a conspicuous place inside each of the cars or carriages used by the grantee upon any of his tramways.

Such list and printed copy as aforesaid shall be published in the Sindh Official Gazette at the expense of the grantee.

Fares how to be paid.

11. The fares and charges by this Act authorized shall be paid to such persons at such places, upon or near to the tramways, and in such manner and under such regulations as the grantee may, by notice to be annexed to the list of fares, from time to time appoint with the approval of the Municipality.

Powers to break up streets.

12. The grantee from time to time, for the purpose of constructing and maintaining any tramways under this Act or any part or parts thereof respectively, may open and break up the soil and pavement of the streets, roads or bridge, and therein lay sleepers and rails, and repair, alter or remove the same; and may, for the purposes aforesaid, do in and on such streets and bridges all other acts which he shall from time to time deem necessary for constructing and maintaining his tramways, subject to the following regulations :—

1st.—He shall give to the Municipality notice in writing of his intention to open or break up any such street, road or bridge, specifying the time at which he will begin to do so, and the portion of the road proposed to be opened or broken up. Such notice to be given at least three days before the commencement of the work, except in cases of emergency arising from defects of the rails or other work, and then so soon as is possible after the beginning of the work or the necessity for the same shall have arisen.

2nd.—He shall not open or break up or alter the level of any such street, road or bridge, except under the superintendence and to the reasonable satisfaction of the Engineer to the Municipality, for which superintendence the grantee shall pay all reasonable expenses, unless the Engineer to the Municipality neglect to give such superintendence at the time specified in the notice or discontinue the same during the work.

[1] For bye-laws, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, pp. 611 and 615.

3rd.—He shall not, without the consent of the Engineer to the Municipality, open or break up at any one time a greater length than a quarter of a mile on any one line of tramway.

4th.—He shall, with all convenient speed, and in all cases within six weeks at the most, unless the Engineer to the Municipality otherwise consents in writing, complete the work for which the said street or bridge shall be broken up, and fill in the ground, and make good the surface, and, to the satisfaction of the Engineer to the Municipality, restore the street or bridge to as good a condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

5th.—He shall in the meantime, when such street or bridge is opened or broken up, cause it to be fenced and watched, and to be properly lighted at night.

6th.—He shall make good all damage done to the gas and water pipes and sewers, whether belonging to the Municipality or to private individuals, by the disturbance thereof.

7th.—If, by any such operations as aforesaid, the grantee interrupts the supply of water or gas in or through any main or main pipe, he shall be liable to a penalty not exceeding two hundred rupees for every day upon which such supply shall be so interrupted.

Grantee to keep the tramway roads in proper repair.

13. The grantee shall, at his own expense, at all times maintain and keep in good condition and repair, in such manner as the Engineer to the Municipality shall direct, the rails of which any of his tramways shall for the time being consist, and so much of any street or bridge as lies between the rails of any tramway; and, in the case of double lines or turnouts or sidings, the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway; and in the course of carrying out such repairs it shall not be necessary to give notice thereof to the Municipality.

Grantee not to obstruct ordinary traffic.

14. In exercising the powers given to him by the last two preceding sections the grantee shall arrange his work so as to afford the least possible obstruction to the ordinary traffic of the streets, and so as to admit of as free and unrestricted entry at all times into the sewers through the man-holes and lamp-holes for the time being in use as is possible under the circumstances, and also so as to enable proper repairs to be made to water or gas pipes by the direction of the Engineer to the Municipality.

Reservation of right of public to

15. Nothing in this Act, or in any bye-law made under this Act, shall take away or abridge the right of the public to pass along or across every or

any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange-wheels or wheels suitable to run on a grooved rail. use roads.

16. Notwithstanding anything in this Act contained, the grantee shall not acquire, or to be deemed to acquire, any right other than that of user of any road along or across which he lays any tramway. Right of user only.

17. If the grantee fail in any respect to comply with the provisions of sections 5, 6, 7, 12 (except the last two clauses), 13 and 14 [1] * * * he shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act, or to any other remedy against him) upon complaint of the Municipality or of any person injuriously affected thereby, be liable to a penalty not exceeding two hundred rupees and to a further penalty not exceeding fifty rupees for each day during which any such failure continues after the first day on which such penalty is incurred. Penalty for failure of grantee to comply with provisions of Act.

18. If any person wilfully obstructs any person acting under the authority of the grantee in the lawful exercise of his powers in setting out or making, laying down, repairing or renewing a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall for every offence be liable for a penalty not exceeding fifty rupees, and shall also be liable to pay such damages as may be awarded in respect of such injury by any competent Court. Penalty for obstructing grantee in exercise of his power.

19. If any person without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things, namely :— Penalty for interfering with tramway.

interferes with, removes or alters any part of a tramway of the grantee, or of the works connected therewith ;

does or causes to be done anything in such a manner as to obstruct any carriage using the tramways :

or knowingly aids or assists in the doing of such thing :

he shall for every such offence be liable (in addition to any proceedings by way of criminal charge or otherwise to which he may be subject) to a penalty not exceeding one hundred rupees.

20. If any person travelling or having travelled in any carriage of the grantee avoids or attempts to avoid payment of his fare, or if any person, having paid his fare for a certain distance, knowingly and wilfully proceeds in any such carriage beyond such distance and does not pay the additional Penalty for avoiding payment of proper fare.

[1] The words " of this Act " were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This Schedule has been priuted as an appendix to the Bombay General Clauses Act, 1904 (Bom. Act 1 of 1904), Vol. IV of this Code.

fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit such carriage, every such person shall for every such offence be liable to a penalty not exceeding ten rupees.

Servant of grantee may arrest persons avoiding payment of fare.

21. It shall be lawful for any servant of the grantee, and all persons called in by him for his assistance, to arrest and take to the nearest police-station any person who shall be discovered either in or after committing or attempting to commit any such offence as in the last preceding section mentioned, and whose name and residence is refused by him, and is unknown to such servant or person, and the police-officer in charge of the said police-station, on receiving a complaint that an offence under this Act has been committed, shall adopt such legal measures as may be necessary to cause the said person to be taken before a Magistrate with the least possible delay.

Carriage of dangerous or offensive goods.

22. No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous or offensive nature, and if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant of the grantee with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding fifty rupees for every such offence, and it shall be lawful for the grantee to refuse to take any parcel that he may suspect to contain goods of a dangerous or offensive nature, or to require the same to be opened to ascertain the fact.

Bye-laws by Municipality.

23. The Municipality in special general meeting may, subject to confirmation thereof by the Local Government, from time to time make such regulations as to the rate of speed, number of passengers, and mode of use of the tramways and motive power as the convenience and safety of the public may require, and as are not inconsistent with this Act.

Grantee may make certain regulations.

The grantee may, subject to confirmation as aforesaid, from time to time make such regulations—

for preventing the commission of any nuisance in or upon any carriage or in or against any premises belonging to him; and

for regulating the travelling in or upon any carriage belonging to him as are not inconsistent with this Act.

And for better enforcing the observance of all or any of such regulations it shall be lawful for such Municipality and grantee respectively, subject to the confirmation thereof by the Local Government, to make [1] bye-laws for

[1] For bye-laws, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, pp. 611 and 615.

all and any of the aforesaid purposes, and from time to time to repeal or alter such bye-laws and make new bye-laws: Provided that such bye-laws be not repugnant to the provisions of this Act or of any law for the time being in force in the city of Karáchi. Notice of the making of any such bye-laws shall be published by the Municipality in the Sindh Official Gazette.

Penalty for breach of bye-laws.

24. Any person offending against any [1]bye-law made under the provisions of the last preceding section shall forfeit for every offence any sum not exceeding twenty-five rupees to be imposed in such bye-laws as a penalty for such offence.

Power to Municipality to license drivers, conductors, etc.

25. The Municipality shall have the like power of making and enforcing rules and regulations and of granting license with respect to all drivers, conductors and other persons having charge of the carriages using the tramways.

Grantee to be responsible for all damages.

26. The grantee shall be answerable for all accidents, damages and injuries happening through his act or default, or through the act or default of any person in his employment, by reason or in consequence of any of his works or carriages, and shall save harmless the Municipality and their officers and servants from all damages and costs in respect of such accidents, damages and injuries.

Power for the Municipality and police to regulate traffic on roads.

27. Nothing in this Act shall limit the powers of the Municipality or the police to regulate the passage of any traffic along or across any road along or across which any tramways are laid down, and the Municipality or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the grantee as to the traffic of other persons.

The Municipality shall not be liable to pay to the grantee any compensation for loss of traffic occasioned by the reasonable exercise of such authority.

Reservation of power over roads.

28. Nothing in this Act shall be construed to prevent the Municipality, in the exercise of the powers conferred upon them under [2]Bombay Act VI of 1873, from opening, breaking up, widening, altering, diverting or improving any of the roads traversed by the tramways for the purposes for which they may now lawfully open, break up, widen, alter, divert or improve the same: Provided—

(1) that they shall cause as little detriment or inconvenience to the grantee as circumstances admit;

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[1] For bye-laws, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, pp. 611 and 615.

[2] *See* now the Bombay District Municipal Act, 1901 (Bom. Act 3 of 1901), Vol. IV, of this Code, by which Bombay Act VI of 1873 has been repealed.

(2) that they may (if absolutely necessary, but not otherwise) order the temporary stoppage of traffic on the tramways or any of them, on giving twenty-four hours' previous notice in writing to the grantee;

(3) that before they commence any work, whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the grantee notice of their intention to commence such work, specifying the time at which they will begin to do so; such notice to be given eighteen hours at least before the commencement of the work;

(4) that, in the event of their so interfering with or stopping the running of any tramway under this section, an abatement proportioned to the length of road over which and time during which running is stopped shall be made from the rent hereinbefore reserved and payable by the grantee;

(5) that any alteration of the position of any of the tramways, or the making good of any injury or damage that may be occasioned thereto by reason of such widening, alteration or improvement, shall be executed by the grantee at the expense of the Municipality.

Municipality to have right of purchasing tramways after twenty-one years.

29. The Municipality shall have the right of purchasing the tramways, with the plant, buildings, stores, rolling-stock and everything connected therewith, upon the expiration of twenty-one years from the commencement of this Act, upon declaring its intention so to do in writing not less than six months before the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years upon similar notice being given and the consideration for such purchase shall be a cash payment of one and two-fifths of the amount of the invested capital of the grantee or securities of the Government of India, or securities the interest whereon shall have been guaranteed by the Secretary of State for India in Council of such amount as to produce, at the rate of interest current on such securities, seven per cent. per annum on the amount of the said invested capital and, if the consideration for such purchase shall be given in such securities as aforesaid, the grantee shall be entitled to have in addition a first mortgage of all the property, assets and profits of the tramway or tramways which shall have been purchased from him.

Grantee may sell his rights

30. At any time the grantee may sell the undertaking to any person, persons, Corporation or Company (subject nevertheless to the provisions of

and powers to other persons.

the said agreement or such of them as shall be then subsisting), and, when any such sale has been made, all the rights, powers, authorities, obligations and liabilities of the grantee under the said agreement and this Act shall be transferred to, vested in and may be exercised by, and shall attach to the person, persons, Corporation or Company, to whom the same has been sold in like manner as if such person, persons, Corporation or Company had been authorized to construct the tramways of the grantee then already constructed and thereafter to be constructed, instead of the grantee.

SCHEDULE.

ARTICLES OF AGREEMENT made this twenty-first day of April, 1882, between the Commissioners of the Karáchi Municipal District incorporated under [1] Bombay Act VI of 1873 (thereinafter called "The Municipality") of the one part and Edward Davis Mathews, Civil Engineer and Contractor for Public Works of 10 Union Court Chambers, Union Court, Old Broad Street in the city of London (hereinafter called "The Grantee") of the other part. Whereas the Municipality have agreed to grant to the Grantee the right to construct, maintain and use a tramway or tramways in Karáchi upon the terms and conditions hereinafter contained and on the part of the said Municipality to be performed the Grantee for himself, his heirs, executors, administrators and assigns hereby covenants with the Municipality so far as the covenants and agreements hereinafter contained are to be performed by the Grantee and his heirs, executors, administrators and assigns, and the Municipality for and in consideration of the covenants and agreements hereinafter contained and on the part of the Grantee and his heirs, executors, administrators and assigns to be performed hereby covenant with the Grantee and his heirs, executors, administrators and assigns, so far as the covenants and agreements hereinafter contained are to be performed by the Municipality in manner following, that is to say :—

1. The Municipality grant to the Grantee and his heirs, executors, administrators and assigns (all which persons are hereinafter included in the words "The Grantee") the right to construct, maintain and use a tramway or tramways with single or double lines and with all necessary sidings, turnouts, connections and lines of whatever nature may be required to connect the said tramway or tramways with the Depôts of the Grantee on the following routes and between such other places and by such other routes as may be hereafter approved of by the Municipality, *viz.* : from a point opposite the

[1] *See* now the Bombay District Municipal Act, 1901 (Bom. Act 3 of 1901), Vol. IV of this Code by which this Act has been repealed.

Carriage Stand on the Old Post Office Square, Sadr Bázár, along Preedy Road, Government Garden Road and Bandar Road to Keamari; and from a point opposite the City Station of the [1]Sindh, Punjab and Delhi Railway to the Native Jetty, crossing the Keamari line at a point near the junction of the McLeod and Bandar Roads.

These lines are more particularly delineated on a [2] plan annexed hereto and thereon shewn by red lines.

2. The Grantee shall moreover (subject to clause 3) have the exclusive right of laying and constructing, maintaining and using a tramway or tramways within the limits of the Municipality on the terms contained in these presents, provided always that if the Grantee shall at any time or times refuse or neglect for six months to accept any proposal by the Municipality for the construction, maintenance and use of any tramway or tramways other than those mentioned in clause 1, which the Municipality may consider necessary or desirable, it shall be lawful for the Municipality to employ any other person or company for the purposes aforesaid or any of them and to make such arrangements as they may think proper independently of the Grantee, and that in all such cases as aforesaid that these additional lines which the Grantee does not take shall have running powers over the Grantee's lines, provided always that in the exercise of these privileges they shall not interfere with or obstruct the traffic of the Grantee, and shall conform to such rules for the regulation of that traffic as may be drawn up by the Grantee and approved by the Municipality:

Provided also that it shall not be lawful for the said other parties to both take up and set down the same passenger on the Grantee's line.

3. The Grantee shall construct all the lines mentioned in clause 1 in such a manner as to be available for use within two-and-a-half years from the passing of the necessary Act by the Legislature, failing which it shall be lawful for the Municipality to withdraw and cancel the concessions and rights granted by these presents to the Grantee as regards the lines remaining unconstructed: Provided always that the Grantee shall not be compelled to construct a greater length of line than five and one-half miles within the said term of two-and-a-half years.

4. Any tramway or tramways to be constructed under this agreement shall be constructed on a gauge of four feet, and the rails shall be laid and maintained in such manner that the uppermost surface of the rails shall be on a level with the surface of the road, and, before the work of construction is

[1] Now called the North-Western Railway.
[2] This plan is not reproduced in this Volume.

begun, drawings and a specification shall be submitted to the Engineer and Secretary to the Municipality and be approved by him, and the cars and carriages intended to run on the said tramways shall be such as shall have been approved by the Engineer and Secretary to the Municipality.

5. If the Municipality shall hereafter alter the level of any street or road along or across which any tramway by this agreement authorized shall be laid the Grantee shall alter the rails so that the uppermost surface thereof shall be on a level with the surface of the road so altered: Provided always that any such alteration as aforesaid shall be so made as to interfere as little as possible with the safe and convenient working of the said tramways, and in any case so as not to stop or prevent the free use and working thereof.

6. The cars and carriages of the Grantee on the tracks of the said Tramways shall be worked with such power, animal or mechanical, as the Grantee may think suitable: Provided that the Municipality shall have power at all times to make such regulations as to the rate of speed, number of passengers and mode of use of the said power and tracks as the convenience and safety of the public using the streets may require.

7. The rails, materials, implements and erections placed and erected by the Grantee on the streets and roads under the powers hereby granted shall be and remain the property of the Grantee, but he shall not remove or displace the same or any of them or any part or parts thereof (except for the purpose of renewing or repairing the same) without the consent in writing of the Municipality.

8. Except as provided in clause 2 no person other than the Grantee may use upon any tramway or tramways to be made under this agreement carriages with flange wheels or other wheels suitable only to run on the prescribed rail.

9. The Grantee shall have the power to fix from time to time the rates of fares for carrying passengers and goods in the said cars or carriages provided that the rate for each passenger or parcel shall for any distance not exceeding three miles not exceed four annas, and shall not for any greater distance exceed the same proportion.

10. The Grantee may (for the purpose of constructing and maintaining any tramways under this agreement) under such superintendence as is hereinafter specified open and break up the soil and pavement of the several public and other streets and bridges in Karáchi, and therein lay rails and all necessaries and from time to time repair, alter or remove the same and may for the purposes aforesaid remove and use all earth and materials in such streets and bridges and do in and on such streets and bridges all other acts which he

shall from time to time deem necessary for constructing and maintaining such tramways subject to the following conditions:—

1st.—He shall give to the Engineer of the Municipality notice in writing of his intention to open or break up any such street or bridge specifying the time at which he will begin to do so and the portion of the road proposed to be opened or broken up, such notice to be given at least three days before the commencement of the work.

2nd.—He shall not open or break up or alter the level of any road, street or bridge except under the inspection and to the reasonable satisfaction of the Engineer to the Municipality.

3rd.—He shall not without the consent of the Engineer to the Municipality open or break up at any one time a greater length than a half of a mile on any one line of tramway.

4th.—He shall with all convenient speed complete the work for which the said street or bridge shall be broken up and fill in the ground and make good the surface and to the satisfaction of the Engineer to the Municipality restore the street or bridge to as good condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

5th.—He shall make good all damage done to the gas and water pipes and sewers whether belonging to the Municipality or to private individuals by the disturbance thereof.

6th.—He shall in the meantime when such street or bridge is broken up cause it to be watched and to be properly lighted at night.

11. The Grantee shall at his own expense at all times maintain and keep in good condition and repair, to the reasonable satisfaction of the Engineer to the Municipality, the rails of which any of the tramways shall for the time being consist and also so much of any street or bridge whereon any tramway belonging to him is laid as lies between the rails of the tramways, and in the case of double lines the portion of the road between the tramways and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway, and in the course of carrying out these repairs, it shall not be necessary to give notice thereof to the Municipality.

12. In exercising the powers given to him by clauses 10 and 11 the Grantee shall arrange his work so as to afford the least possible obstruction to

the ordinary traffic of the streets, and so as also to admit of as free and unrestricted entry at all times into the sewers through the man-holes and lamp-holes for the time being in use as is possible under the circumstances, and also so as to enable proper repairs to be made to water or gas pipes by the direction of the Municipality, provided always that the Municipality shall keep all gas and water pipes and other pipes or works which may hereafter be laid down as far as practicable from the lines of tramway.

13. If the Grantee shall commit any breach of clauses 10, 11 and 12 it shall be lawful for the Municipality in their discretion where such breach shall be in the execution of any work or repairs at any time after 7 days' notice to the Grantee themselves to do and execute such work or repairs and the expenses incurred by the Municipality in so doing including the cost of superintendence shall be repaid to them by the Grantee, and the certificate of the Engineer to the Municipality as to such cost shall be conclusive.

14. If any person sustain any loss or damage by reason of any defect or want of repairs in any of the plant, rolling-stock or other properties of the Grantee, or by reason of any carelessness, neglect or misconduct of his agents or servants in the management, construction or use of the said tramways or any portion thereof, or in the exercise of the powers given by clauses 10 and 11 the same shall be made good by the Grantee, and in the event of any suit being instituted against the Municipality in respect of any of the matters hereinbefore mentioned, the Grantee shall within 14 days from receipt of notice thereof from the Municipality settle the same, but if the Grantee chooses to defend such suits he shall be at liberty to do so on his undertaking to indemnify the Municipality against all losses, damages and expenses in respect thereof, provided always that if the Grantee fails to settle such suit or to indemnify the Municipality as is hereinbefore provided, it shall be lawful for the Municipality to settle the same without any consent or concurrence on the part of the Grantee and the sum which they shall have to pay in making such settlement and with all expenses to which they may be put shall be recoverable as a debt from the Grantee.

15. If at any time after the opening of any tramway for traffic the Grantee shall continue the working of such tramway or any part thereof for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the Grantee), it shall be lawful for the Municipality without any previous notice to the Grantee to remove the tramway or any part thereof so discontinued. And the Grantee shall pay to the Municipality the cost of such removal and of the making good of such street or

bridge through which the said tramway shall have been made and the certificate of the said Engineer to the Municipality as to such cost shall be conclusive.

16. The Grantee will if required by the Municipality before opening and breaking up the soil and pavement of any street or bridge under clause 10 of these presents deposit in the Bank of Bombay or other approved Bank in Karáchi in the name of the Municipality the sum of Rupees 5,000 or in his option Promissory Notes of the Government of India or Municipal Bonds of the nominal value of Rupees 5,000, and the same will remain so deposited until the completion by the Grantee of the lines of tramway hereby sanctioned. But all interest accruing on the said sum or the said notes shall be credited to the Grantee and subject as next hereinafter mentioned be paid to him as the same shall accrue due, provided nevertheless that the Municipality shall be entitled to deduct out of the sum so deposited or the interest accruing on the said sum or notes or bonds or out of the proceeds of sale of the said notes or bonds all moneys to which they may be entitled under these presents.

17. In consideration of the concession hereby granted, the Grantee shall pay to the Municipality a sum at the rate of 500 rupees per annum per mile of running tramway whether double or single line, all necessary sidings, turn outs, connections or loops of whatsoever kind being, however, exempt from such mileage rate, and the said sum shall be payable half-yearly and shall form a first charge on the undertaking, and the date on which such sum on each line of tramways or part of a line shall begin to accrue shall be the date on which such line or part of a line of tramway shall be opened for public traffic. The sum so payable as aforesaid shall be in lieu of all rates, taxes, and assessments of any kind whatsoever made by or payable to the Municipality in respect of the Tramways, Horses, Carriages, Engines, Depôts, Stables, and any other property or effects, provided always that no lines or sidings over which passengers or goods are not carried for hire connecting the traffic lines with the stables, carriage sheds, or depôts or other property of the Grantee shall be included in mileage for which such sum shall be payable.

18. If the said sum or any part thereof shall not be paid on due date, the Grantee shall be liable to pay interest thereon at the rate of 8 per cent. per annum from the due date until payment.

19. From and after the commencement of 15th year of this contract to the end of the twenty-first, the Grantee shall not be at liberty to enter upon any fresh engagements or expenditure which would increase his capital account in connection with this contract without first notifying his intention to the

Municipality and obtaining their approval thereof and sanction thereto in writing.

20. The Municipality shall have the right of purchasing the said tramways with the plant, buildings, stores, rolling-stock and everything connected therewith upon the expiration of twenty-one years from the date of opening the first section for traffic upon declaring its intention so to do by notice in writing to be given to the Grantee not less than six months before the expiration of the said 21 years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said 21 years upon similar notice being given, and the consideration for such purchase shall be a cash payment of one and two-fifths of the amount of the invested capital of the Grantee or Securities of the Government of India, or Securities the interest whereon shall have been guaranteed by the Secretary of State for India in Council of such amount as to produce at the rate of interest current on such Securities seven per cent. per annum on the amount of the said invested capital, and if the consideration for such purchase shall be given in such Securities as aforesaid, the Grantee shall be entitled to have in addition a first mortgage of all the property assets and profits of the tramway or tramways which shall have been purchased from him.

21. In the event of the Municipality failing to declare its intention as above provided to purchase the property of the Grantee, the terms of this contract shall continue in force.

22. The provisions hereinbefore contained shall so far as applicable apply to all tramways to be constructed by the Grantee by any route or routes to be hereafter fixed by the Municipality or under clauses 1 and 3 of these presents and to the works connected with or incidental to such tramways.

23. The date of the commencement of this contract or concession shall be the date on which notice of the confirmation hereof by the Bombay Legislature shall be given to the Grantee or his representative in Karáchi.

24. Unless the Grantee shall have commenced the work of laying down the said tramways within 12 months from the said date, the Municipality shall be at liberty to cease and determine this contract and to enter into arrangements with any other person and persons for the construction of tramways.

25. Nothing in this agreement shall take away or affect any power which the Municipality may have by law to open or break up or to widen, alter, divert or improve any street or road, provided always :—

1st. That they shall cause as little inconvenience to the Grantee as circumstances will admit.

2nd.—That they may (if absolutely necessary, but not otherwise) order the temporary stoppage of traffic on the said tramways or any of them on giving twenty-four hours' notice in writing to the Grantee.

3rd.—That before they commence any work whereby the traffic on the tramways will be interrupted they shall, except in cases of urgency (in which cases no notice shall be necessary), give to the Grantee notice of their intention to commence such work specifying the time at which they will begin to do so, such notice to be given twenty-four hours at least before the commencement of the work.

4th.—That in the event of their so interfering with or stopping the running of any tramway under this clause an abatement proportioned to the length of road over which and time during which running is stopped shall be made from the sum hereinbefore reserved and payable by the Grantee in lieu of Municipal rates, taxes and assessments.

5th.—That any alteration of the position of any of the tramways or the making good of any injury or damage that may be occasioned thereto by reason of such widening, alteration or improvement shall be executed by the Grantee at the expense of the Municipality.

26. If any doubt, difference or dispute shall arise between the Grantee and the Municipality touching the construction of these presents or anything herein contained or touching or concerning any other matter or thing relating to these presents, then and in every such case such doubt, difference or dispute shall be referred to the arbitration of two persons, one to be chosen by the Grantee and the other by the Municipality, within one calendar month after either of them shall have made to the other a requisition to that effect in writing, and should the Arbitrators fail to agree, they shall refer the question at issue to the decision of an Umpire to be chosen by the said Arbitrators, and the decision of such Arbitrators if they agree or of such Umpire if they disagree shall be final, and in case either party shall neglect or refuse to appoint an Arbitrator within the specified time, the Arbitrator appointed by the other party shall make a decision alone, and the decision of such Arbitrators, Umpire or Arbitrator as the case may be shall be effectual and binding upon both parties.

BOMBAY ACT No. III OF 1883.[1]

[*8th May, 1883.*]

An Act to further amend the Bombay Port Trust Act, 1879.

[NOTE.—The amendments made by this Act are incorporated in Bom. Act VI of 1879, *supra*, p. 710.]

Bom. VI of 1879.

BOMBAY ACT No. V OF 1883.[2]

[*5th November, 1883.*]

An Act to enable Government to prescribe the Official Seals of Sessions Judges, Magistrates and other public authorities.

WHEREAS it is expedient [3] * * * * * to enable the Government to prescribe what official seals[3] * public authorities [3]* * * shall have and use; It is enacted as follows :—

Short title.

1. This Act may be called the Bombay Public Authorities Seals Act, 1883.

Repeal of Bom. Act II of 1870.

2. Bombay Act II of 1870 is hereby repealed. Every notification issued under the said Act and now in force shall be deemed to have been issued under this Act.

Government empowered to prescribe the seals of certain public authorities.

3. The Governor in Council may, from time to time, by notification in the Bombay Government Gazette, direct what official seals [4] each of the following [5] * * * * public authorities shall have and use (namely) :—

(1) Sessions Judges, Additional and Joint Sessions Judges and Assistant Sessions Judges;

(2) Presidency Magistrates;

(3) any other Magistrates;

(4) any other judicial officer or public authority, whose official seal is not prescribed by law and no other authority is legally competent to prescribe.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1882, Pt. V, p. 62; and for Proceedings in Council, *see ibid*, p. 72, *ibid*, 1883, p. 13.

[2] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1883, Pt. V, p. 69; and for Proceedings in Council, *see ibid*, p. 72.

[3] The words and figures "to extend the provisions of Bombay Act 2 of 1870 (*an Act to enable the Government of Bombay to prescribe the official seals of the Magistrates*), so as," the word "other" and the words "besides Magistrates" were repealed by the Repealing and Amending Act, 1895 (Act 16 of 1895).

[4] For notifications prescribing seals, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. 615.

[5] The words "courts and others" were repealed by the Repealing and Amending Act, 1895 (Act 16 of 1895).

Every such notification may from time to time be modified or rescinded by the Governor in Council by a like notification.

Date on which notifications under last section shall take effect.

4. Every notification made under the last preceding section shall come into force on such date as the Governor in Council shall therein fix in this behalf.

BOMBAY ACT No. VI OF 1883.[1]

[*26th November, 1883.*]

An Act to further amend the Bombay Port Trust Act, 1879. Bom. VI of 1879.

[NOTE.—The amendment made by this Act is incorporated in Bom. Act VI of 1879, *supra*, p. 710.]

THE BOMBAY LOCAL BOARDS ACT, 1884.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1883, Pt. V, p. 16; and for Proceedings in Council, *see ibid*, p. 71.

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SCHEDULE

BOMBAY ACT No. I OF 1884.[1]

[*21st March, 1884.*]

An Act to make better provision for the Administration of Local Funds in the Presidency of Bombay.

WHEREAS it is expedient to amend the law relating to the administration of local funds by district and táluqá committees ; It is enacted as follows :—

I.—PRELIMINARY.

1. This Act may be called the Bombay Local Boards Act, 1884. **Short title.**

It extends to the whole of the Presidency of Bombay, except the City of Bombay and Aden. **Local extent.**

2. From the date notified by the Governor in Council under section 13 for each district the enactments mentioned in the schedule [2] * * * * * shall be repealed in such district to the extent specified in the third column thereof, but not so as to render invalid anything done in accordance with any of them : **Repealing section.**

Provided that—

all debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with or for the committee or authority heretofore charged, in the local area over which the authority of any local board established under this Act extends, with the administration of local funds under [3] Bombay Act VIII of 1865 (which Act may be called "The Sindh Local Funds Act, 1865,") or the [4] Bombay Local Funds Act, 1869, shall be deemed to have been incurred, entered into or engaged to be done by, with or for the local boards so established ; Bom. III of 1869.

and all sums of money due to the said committee or authority shall be deemed to be due to the said local board ;

and all suits or other legal proceedings, civil or criminal, instituted, or which might, but for the passing of this Act, have been instituted by or against any such committee or authority may be continued or instituted, by or against the said local board ;

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1883, Pt. V, p. 39 ; for Report of the Select Committee, *see ibid*, p. 101 ; and for Proceedings in Council, *see ibid*, p 72, and *ibid*, 1884, pp. 2 and 21.

[2] The words "hereto annexed" were repealed by the Bombay General Clauses Act, 1886 (Bom. Act 3 of 1886), Schedule B. This schedule has been printed as an appendix to the Bombay General Clauses Act, 1904 (Bombay Act 1 of 1904), Vol. IV of this Code.

[3] *Supra*, p. 454.

[4] *Supra*, p. 492.

and all rules or orders made under any enactment hereby repealed and all other rules, if any, now in force and relating to any of the matters hereinafter dealt with shall, so far as they are consistent with this Act, be deemed to have been made hereunder.

Interpretation-section.

3. In this Act, unless there be something repugnant in the subject or context—

(1) the term " official Gazette " means, in Sindh, the Sindh Official Gazette, and elsewhere, the Bombay Government Gazette :

(2) [*Definition of Commissioner.*] *Rep. Bom. Act III of 1886, s. 2.*

(3) the words " salaried servant of Government " do not include a retired servant of Government in receipt of a pension :

(4) the word " táluqá " means any local area for which a táluqá local board is established, inclusive of the portion of such area, if any, for the time being within a municipal district or a military cantonment :

Expressions defined in the Land-revenue Code.

(5) any word or expression which is defined in the [1] Bombay Land-revenue Code, 1879, and is not hereinbefore defined, shall be deemed to have the meaning given to it by that Code. Bom. V of 1879.

II.—Of Local Boards.

Constitution of the Boards.

Establishment of district and táluqá local boards.

4. Local funds shall be administered by local boards [2] established for this purpose as hereinafter provided. There shall be one local board for each district and also one for each táluqá as constituted under the [1] Bombay Land-revenue Code, 1879, or for such area consisting of one or more such táluqás or portions of such táluqás as the Governor in Council shall deem fit.

Local extent of the board's authority.

Each district local board shall have authority for the purposes of this Act over the entire district, and each táluqá local board over the entire táluqá for which they are respectively established, except such portions thereof as are for the time being within a municipal district or a military cantonment.

Constitution of local boards.

5. Every district and táluqá local board shall consist of—

(*a*) elective members, and

(*b*) such persons, if any, as the Governor in Council or any officer whom he [3] authorizes in this behalf from time to time appoints, who shall be called " nominated members " :

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[1] *Supra*, p. 631.

[2] For Notifications regarding the establishment of Local Boards in the Bombay Presidency including Sindh, made under Sections 4, 6, 7 and 69, *see* those noted in the List prefixed to the Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. CXXXIII to CXLXII.

[3] For Notification authorising Commissioners of Divisions to appoint nominated members, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. 617.

Provided that the number of elective members shall be not less than one-half of the whole board exclusive of the president, and that not more than one-half of the nominated members shall be salaried servants of Government.

Elective members of táluqá local boards by whom to be elected.

6. The elective members of táluqá local boards [1] shall be as follows :—

(*a*) one member for each municipal district within the táluqá for which a táluqá local board has been established containing more than five thousand inhabitants, elected by the commissioners o such district from amongst their own number;

(*b*) one member (qualified as hereinafter provided) for each of the several groups into which for the purposes of this clause the Governor in Council shall from time to time deem fit to cause the villages in the area subject to the authority of such board to be divided, elected by persons qualified, as hereinafter provided, to vote at such elections;

(*c*) one member elected by the holders of entire alienated villages, if any, within the táluqá, from amongst their own number, or, if there is but one such holder in the taluqa, such holder himself or any person whom he nominates as his representative.

Elective members of district local boards by whom to be elected.

7. The elective members of district local boards shall be as follows :—

(*a*) one member or, if Government so direct, two or more members for each táluqá local board in the district, or one member for two or more táluqá local boards in the district, united for this purpose into a joint board elected by the members of such board or joint board from amongst their own number;

(*b*) one member for each municipal district within the district containing not less than eighteen thousand inhabitants elected by the commissioners of such district from among their own number;

(*c*) one member elected by the holders of entire alienated villages, if any, within the district from amongst their own number, or, if there is but one such holder in the district, such holder himself, or any person whom he nominates as his representative:

Provided that the person to be elected by any táluqá local board under clause (*a*) may not be a Mámlátdár having jurisdiction in the area subject to the authority of such board.

[1] *See* second footnote on p. 830.

Constitution of local boards in exceptional parts.

8. The Governor in Council may at any time by notification in the Bombay Government Gazette direct that the provisions of sections 5, 6 and 7 and the subsequent provisions of this Act which refer to those sections or any one or more of the said provisions shall not apply to the local board of any district or táluqá to which for exceptional reasons which shall be set forth in the said notification, he shall deem such provisions to be unsuitable.

In the said notification or any subsequent notification published as aforesaid, the Governor in Council may prescribe[1] such provision or provisions as he deems fit in substitution for the provision or provisions declared inapplicable to any local board, and the provision or provisions so prescribed shall have effect so far as concerns such board, as if the same were inserted in this Act.

It shall be competent to the Governor in Council at any time to alter or rescind any notification issued by him under this section, and in the event of any notification under the first paragraph being rescinded, the local board affected thereby shall, from a date to be fixed in this behalf by the Governor in Council, be constituted in accordance with sections 5, 6 and 7 and the subsequent provisions of this Act having reference thereto.

Incorporation of local boards.

9. Every local board shall be a body corporate by the name of "The District Local Board of " or "The Táluqá Local Board of ", as the case may be, and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be competent to acquire and hold property, both moveable and immoveable, to lease, sell or otherwise transfer any moveable or immoveable property which may have become vested in or been acquired by them, and to contract and to do all other things necessary for the purposes of this Act:

Provided that no lease of immoveable property for a term exceeding three years and no sale or other transfer of any such property shall be valid unless such lease, sale or other transfer shall have been made with the previous sanction of the Commissioner.

Qualifications and Disqualifications of Members.

Qualifications necessary for certain members of táluqá local boards.

10. Unless disqualified on any of the grounds set forth in the next following section, the following persons shall be entitled to have their names entered in the List No. I, to be prepared as hereinafter provided, qualifying them to be elected under section 6 (*b*) members of a táluqá local board, namely:—

(*1*) landholders, whose holdings situate within the táluqá are assessed (or, in the case of alienated lands, would be assessed, if they were not

[1] For orders as to the constitution of Local Boards in Sindh, *see* the list prefixed to the Bombay List of Local Rules and Orders, Vol. II, Ed. 1898, pp. CXLI and CXLII.

alienated) to the land-revenue at not less than forty-eight rupees per annum or such smaller minimum as the Governor in Council shall from time to time prescribe for each táluqá ;

(*2*) persons who own immoveable property within the táluqá, other than a holding described in clause (*1*) of this section, estimated by the Collector to be not less than five thousand rupees in value ;

(*3*) persons residing within the táluqá, whose annual net earnings from any occupation are estimated by the Collector to be not less than five hundred rupees ;

(*4*) pensioned Government servants, residing within the táluqá, whose pensions are not less than rupees fifty per mensem ;

(*5*) honorary Magistrates residing within the táluqá ;

(*6*) officiating revenue or police patels of villages within the táluqá ;

(*7*) such other persons, if any, residing within the táluqá, as the Governor in Council shall from time to time, by notification in the official Gazette, direct.

General disqualifications.

11. No female and no person—

(*a*) who is less than twenty-one years of age, or

(*b*) who is a District or a Subordinate Judge or is acting in either of those capacities, or

[1] (*c*) who has been sentenced by a Criminal Court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, and whose disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf, or

(*d*) who is an uncertificated bankrupt or an undischarged insolvent,

may be a member of a local board ;

and no person—

(*e*) who is a subordinate officer or servant of a local board, or

(*f*) who has directly or indirectly any share or interest in any work done

[1] This clause was substituted by the Bombay Local Boards Amendment Act, 1885 (Bom. Act 4 of 1885), s. 1.

The original clause was as follows :—

"(*c*) who has been convicted by any criminal court of an offence which may not lawfully be compounded, such conviction not having been subsequently reversed or quashed."

by order of a local board, or in any contract or employment with or under a local board,

may be a member of such board;

and any member of a local board who, during the term for which he has been elected or appointed,—

(*g*) becomes disqualified for any of the above reasons, or

(*h*) is absent for more than four consecutive months from the limits of the district in which the board is established,

shall cease to be a member, and his office shall become vacant.

Re-eligibility of members.

12. A person who has already been elected or appointed a member of a board on one or more occasions shall, if otherwise duly qualified, be eligible at any time for re-election or re-appointment.

Terms of Office; Casual Vacancies.

First local boards from what date to take office.

13. The members of the first local boards to be established under this Act shall commence their terms of office on such date [1] as shall be notified in this behalf for each district by the Governor in Council.

Term of office.

14. Except as is otherwise provided in the next following section, members of local boards shall, unless they become in the meantime disqualified, hold office for a term of three years, [2] [extensible, by order of the Governor in Council, to a term not exceeding in the aggregate three years and six months, if on any occasion the Governor in Council shall think fit, for reasons which shall be notified, together with the order, in the Bombay Government Gazette, so to extend the same].

Casual vacancies how to be filled up.

15. In the event of the death, resignation or disqualification of a member of a local board or of his becoming incapable of acting previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the member in whose place he is elected or appointed would have held it if the vacancy had not occurred.

Elections of Members.

Elections when to be held.

16. Every election requisite for the purposes of this Act shall be held on such date as the Collector shall fix in this behalf: Provided that when the elections are for the first boards to be established in any local area under this

[1] Dates have been notified under s. 13 for all districts.

[2] These words were added by the Bombay Local Boards further Amendment Act, 1888 (Bom. Act I of 1888), s. 1, Vol. III of this Code.

Act or for filling the places of members whose terms of office have expired such dates shall be—

(*a*) if the elections are under section 7 (*a*), as early as conveniently may be after the elections and appointments to the táluqá local boards by which such elections are to be made are completed, and before the commencement of the term of office of the district local board to which such elections are to be made;

(*b*) in any other case, not sooner than three months and not later than one month before the commencement of the term of office of the members of the board to which such elections are to be made.

Elections under sections 6 (*c*) and 7 (*c*) how to be conducted.

17. The Collector shall, subject to the orders of Government, from time to time determine what persons are entitled to vote and what persons are qualified to be elected under section 6 (*c*) and section 7 (*c*), respectively, and his decision shall be conclusive.

When an election has to be made under section 6 (*c*) or section 7 (*c*), the Collector shall, not less than ten days before the date fixed for the election, cause a list of the persons qualified to be elected to be left at the usual residence of each of the persons entitled to vote at such election, together with a notice inviting the last named persons, before the day fixed for the election, to make each a written return to him of the name of any one of the persons mentioned in the said list for whom they wish to vote.

On the day fixed for the election, or as soon as may be thereafter, the Collector shall inspect all returns duly made as aforesaid, and shall record in writing under his signature the result of the election.

What persons may be voters at elections of members of táluqá local boards under section 6 (*b*).

18. Unless disqualified under the next following section the following persons shall be entitled to have their names entered in the List No. II, to be prepared as hereinafter provided, qualifying them to vote at elections of members of táluqá local boards under clause (*b*) of section 6, namely :—

(*1*) every person possessing the qualifications described in any of the clauses (1) to (7) of section 10: Provided that such person resides within the group of villages for which such list is prepared and that, if his qualification is under clause (*1*) or clause (*2*) of that section, the holding or immoveable property in respect of which he is so qualified is without the limits of a municipal district containing more than five thousand inhabitants;

(*2*) all other persons, if any, residing within the group of villages for which the list is to be prepared to whom the Governor in Council shall by notification in the official Gazette from time to time deem fit to extend the franchise:

Provided always that no alteration in, or addition to, the qualifications entitling persons as aforesaid, made at any time after the first elections have been held in any district under section 6 (*b*), shall take effect in such district within six months from the date on which such alteration or addition is made.

General disqualifications.

19. No person who is less than twenty-one years of age shall be entitled to have his name entered in the said List No. II.

Preparation of lists of persons qualified to be members of táluqá local boards and of voters.

20. The Collector shall, as soon as may be after the coming into force of this Act, prepare—

(*a*) a list (which shall be called "List No. I"), for each táluqá, of the persons qualified to be members of the local board of that táluqá; and

(*b*) a list (which shall be called "List No. II"), for each of the groups of villages into which for the purposes of clause (*b*) of section 6 the area subject to the authority of the said board has been divided, of the persons qualified to vote in such group at elections of members of the táluqá local board under the said clause.

The said lists shall be prepared in the first instance from such information as shall be available in the records of the Collector and of the officers subordinate to him.

Similar new lists shall be prepared by the Collector whenever Government so direct, and at least once in every three years; and such new lists shall be based upon information available as aforesaid and also upon the past decisions of the Collector under section 22.

Publication of the lists.

21. The lists so prepared shall be published by affixing a copy of each of them in some conspicuous place in or near the office of the Mámlatdár, or of each Mámlatdár having jurisdiction in the táluqá to which they relate, and by affixing in the chávdi or some other public building of each town or village in the táluqá a copy of List No. I and of so much of List No. II as affects such town or village.

The publication aforesaid shall be made in the vernacular language of the táluqá and at least two months before the date fixed for the election of members to the first local board to be established in the táluqá, and thereafter at least two months before the date fixed for any election of persons to fill the places of members whose terms of office have expired.

Revision of lists.

22. The Collector may, on application being made to him at any time within one month after the publication of the lists aforesaid by any person claiming to be qualified to be a member, or to vote at an election of members

of the táluqá local board, correct any erroneous entry in either of the said lists, or insert therein the name of any applicant who satisfies him of his right to have it so entered.

Lists conclusive evidence of right to be elected or to vote.

23. No person whose name is not in the revised List No. I last published before the date of any election under clause (*b*) of section 6 shall be qualified to be elected a member of the táluqá local board for the táluqá to which it refers;

and no person whose name is not in the revised List No. II last published before the date of any such election for any group of villages shall be qualified to vote at the election of a member for such group.

Provisions for particular cases.

24. If at any election of a member of a local board under this Act there is an equal number of votes in favour of each of two or more persons who are willing to take office, the selection of one of such persons shall be made by the Collector, or by such officer as he may empower in this behalf, by lot in such manner as the Collector, or the officer so empowered, shall deem fit.

If the person in whose favour the highest number of votes is recorded at any such election declines to take office, the person, if any, in whose favour the next highest number of votes has been recorded and willing to take office shall be deemed to be the member elected.

If at any election no votes are recorded, or if for any reason the election does not result in the return of any qualified person willing to take office, the Collector in the case of a táluqá local board, and the Commissioner in the case of a district local board, shall, with the approval of Government, appoint some person who would have been qualified to be elected, and the person so appointed shall be deemed to be a member of the local board as if he had been duly elected.

Determination of validity of elections.

25. If the validity of any election of a member of a local board, or the legality of any order or proceeding made or held under the last preceding section, is brought in question by any person qualified either to be elected or to vote at the election to which such question refers, such person may, at any time within fifteen days after the date of the declaration of the result of the election, or the date of the proceeding or order, apply to the District Judge of the district within which the election has been or should have been held.

The District Judge may, after such inquiry as he deems necessary, pass an order for confirming or amending the declared result of the election, or the order of the Collector under the last preceding section, or for setting the election aside.

For the purposes of the said inquiry, the District Judge may exercise any of the powers of a Civil Court, and his decision shall be conclusive.

If he sets aside an election, a date shall forthwith be fixed and the necessary steps taken for holding a fresh one.

Publication of names of members in the official Gazette.

26. The names of all members finally elected to any local board, as well as the names of the nominated members, if any, appointed thereto, shall be published, as soon as conveniently may be, in the official Gazette.

Presidents and Vice-Presidents.

Nomination of presidents;

27. Every local board shall be presided over by a president, who shall be one of the members of the local board, and shall be appointed by the Government or, if the Governor in Council so directs, elected by the local board.

and of vice-presidents.

If the president so appointed or elected is a salaried servant of Government, the board shall elect one of its members to be vice-president; unless the Governor in Council otherwise directs, no appointment of vice-president shall be valid until it is approved by the Government, or by such other authority as the Government prescribe in this behalf.

Their term of office and liability to be removed.

Every president's and vice-president's term of office shall cease on the expiry of his term of office as a member of the local board over which he presides: Provided that he shall be removable from office, as such president or vice-president, by the Government for misconduct, or neglect of, or incapacity to perform, his duty.

Casual vacancies in their office how to be filled up.

In the event of the death, resignation or removal from office of a president or vice-president, or of his becoming incapable of acting, or disqualified to be a member of the local board, previous to the expiry of his term of office the vacancy shall be filled up as soon as it conveniently may be, by the appointment or election, as the case may be, of some other member of the board thereto.

Functions of presidents.

28. The president of a local board shall—

(*a*) preside at the meetings of the board;

(*b*) watch over the financial and executive administration of the board, and submit to the board all questions connected therewith which shall appear to him to require its orders;

(*c*) exercise supervision and control over the acts and proceedings of all officers and servants of the board in matters of executive administration, and in matters concerning the accounts and records of the board; and, subject to the regulations at the time being in force framed by the board under section 39, dispose of all questions relat-

ing to the service of the said officers and servants, and their pay, privileges and allowances;

(*d*) furnish to the Collector, or to such other officer as the Collector shall from time to time nominate in this behalf, a copy of every resolution passed at any meeting of the board and any extract from the minutes of the board's proceedings, or other document or thing, which the Collector may from time to time call for under section 62.

President in certain cases to have only a casting vote.

When the president of a board is a salaried servant of Government, and has been appointed to be president by the Government, he shall not vote upon any question which comes before such board for decision unless there is an equality of votes of the other members of the board present for and against the proposition under consideration, in which case he shall have a casting vote.

Functions of vice-presidents.

29. Vice-presidents of local boards shall—

(*a*) in the absence of the president preside at the meetings of the board; and

(*b*) exercise such of the powers and perform such of the duties of the president as the president from time to time deputes to him.

Duties of Local Boards.

Obligatory duties.

30. It shall be the duty of local boards, so far as the local fund at their disposal will allow, to make adequate provision for the areas respectively subject to their authority in regard to the following matters, namely:—

(*a*) the construction of roads and other means of communication and the maintenance and repair of all roads and other means of communication vesting in them;

(*b*) the construction and repair of hospitals, dispensaries, markets, dharmsálas and other public buildings, and the visiting, management and maintenance of these institutions;

(*c*) the construction and repair of public tanks, wells and water-works, the supply of water from them and from other sources, and the construction and maintenance of works for the preservation of water for drinking and cooking purposes from pollution;

(*d*) the provision of suitable accommodation for the visiting and maintenance of and the training of teachers for primary schools, and the general development and extension of primary education;

(*e*) public vaccination and sanitary works and measures necessary for the public health ;

(*f*) the planting and preservation of trees by the side or in the vicinity of roads vesting in such boards ; and

(*g*) the maintenance of any property vesting in them ;

Discretionary powers of expenditure.

and local boards may at their discretion provide out of the said fund for the following matters, namely :—

(*h*) the establishment and maintenance of model farms, the acclimatization of exotics, the importation and distribution of superior kinds of seed, the improvement of the breed of cattle and horses, and the introduction and preservation of fish ;

(*i*) the establishment and maintenance of relief and local relief works in time of famine or scarcity ;

(*j*) educational objects other than those set forth in clause (*d*) of this section ; and

(*k*) any other local works or measures likely to promote the health, comfort or convenience of the public.

Relative duties of táluqá and district local boards.

31. Subject to the control of the district local board and, as regards educational matters, to the provisions of section 48, clause (*b*), each táluqá local board shall, within the area subject to its authority, have the control and administration of all purely local roads, works and buildings maintained at its cost, and also of all local services and institutions except such as the district local board thinks fit to take under its own direct control and administration.

In respect of roads, works, buildings, services and institutions in the control and administration of the district local board, each táluqá local board shall, if the district local board so desires, be the agent of the district local board and, as such agent, shall exercise such authority and perform such duties as the district local board may from time to time in writing delegate to it.

Conduct of Business.

Provisions regulating local board's proceedings. Board to meet together and

32. The following provisions shall be observed with respect to the proceedings of a local board, namely :—

(*a*) The board shall meet together and shall from time to time make regulations [1] consistent with this Act, and with any rules or orders

[1] Rules have been made under ss. 32 and 39 by all the principal local boards in the Presidency, but all of them do not appear to have been published in the local Gazette. They are noted, however, in the list prefixed to the Bombay Local Rules and Orders, Vol. II, Ed. 1893, pp. cxcii to cxlvi.

made by Government under section 69 with respect to the place, day, hour, notice, management and adjournment of such meetings, and generally with respect to the transaction of business, as they think fit, subject to the following conditions, namely :— arrange for transaction of business.

(1) that the president may, whenever he thinks fit, and shall, upon the written request of not less than one-fourth of the members, call a special meeting ; Special meetings.

(2) that no business shall be transacted at any meeting unless at least one-third of the members are present from the beginning to the end of such meeting ; Quorum.

(3) that every meeting shall be open to the public unless the presiding authority deems any inquiry or deliberation pending before the board such as should be held in private, and provided that the said authority may at any time cause any person to be removed who interrupts the proceedings ; Meetings to be ordinarily open to the public.

(4) that every meeting shall be presided over by the president, if he is present at the time appointed for holding the same, and, if he is absent by the vice-president, and, if both the president and vice-president are absent, by such one of the members present as may be chosen by the meeting to be chairman for the occasion ; Meeting to be presided over by the president.

(5) that, except as is otherwise provided in section 28, all questions shall be decided by a majority of votes of the members present, the president, vice-president or chairman having a second or casting vote in all cases of equality of votes ; Questions to be decided by a majority of votes.

(6) that the board may delegate any of their duties or powers to committees consisting of such members as they think fit ; and that any committee so formed shall conform to any instructions that may from time to time be given to them by the board, and the board may at any time discontinue or alter the constitution of any committee so formed ; Board may delegate their functions to committees.

(7) that a committee may elect a chairman of their meetings, and if no such chairman is elected, or if he is not present at the time appointed for holding any meeting, the members present shall choose one of their members to be chairman of such meeting ; Committee's meetings to be presided over by a chairman.

(8) that committees may meet and adjourn as they think proper, but the president of the board may, whenever he thinks fit, and Committee to meet when

they think proper.

shall, upon the written request of not less than two members of a committee, call a special meeting of such committee;

Questions to be decided by a majority of votes.

(9) that questions at any meeting of a committee shall be decided by a majority of votes of the members present, and, in case of an equal division of votes, the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from beginning to the end thereof;

Notice to be given to certain officers.

(10) that, except for reasons which the presiding authority deems emergent, no business relating to any work which is being executed, or which under section 61 may only be executed for the board by the Government Executive Engineer of the district, or to any educational matter, shall be transacted at any meeting of a local board or of a committee, unless at least fifteen days previous to such meeting a letter has been addressed to any officer of the Government Public Works and Educational Departments, respectively, who is not a member of the board but is entitled under section 33 to be present at such meeting, informing him of the intention to transact such business thereat and of the motions or propositions to be brought forward concerning such business;

Minutes of proceedings.

(11) that minutes shall be kept of the names of the members and of the Government officers, if any, present under the provisions of section 33, and of the proceedings at each meeting of the board and each committee's meeting, and, if any member present at the meeting so desire, of the names of the members voting respectively for or against any resolution in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president or vice-president or chairman of such meeting, and shall at all reasonable times be open to inspection by any member of the board or by any inhabitant of the district;

Regulations of táluqá board subject to approval of district board.

(12) that every regulation made under this section by a táluqá local board shall be subject to the approval of the district local board to which such táluqá local board is subordinate.

Vacancy not to affect board's proceedings.

(*b*) During any vacancy in the board, the continuing members may act as if no vacancy had occurred.

Acts of board,

(*c*) No act of the board, or of any committee, or of any person acting as

a member or as a president, vice-president or chairman, shall be deemed to be invalid by reason only of some defect in the appointment of such board, committee, president, vice-president, chairman or member, or on the ground that they, or any of them, were disqualified for the office of member, or that formal notice of the intention to hold a meeting of a board or of a committee was not duly given, or for any other such mere informality. etc., not to be invalidated by informalities.

33. The Executive Engineer, the Educational Inspector and the Deputy Sanitary Commissioner of a district, and the Civil Surgeon in a district, when charged with any of the duties of a health officer therein, if not members of a district local board, shall have the right of being present at any meeting of the said board, or of any committee thereof, and, with the consent of the board or committee, each of them may take part at such meeting in the discussion or consideration of any question on which in virtue of the duties of his office he considers his opinion or the information which he can supply will be useful to such board or committee: Provided that the said officers shall not, unless they are members of the board, be entitled to vote upon any such question. Certain Government officers may attend meetings of district local boards;

Any officer of the Government Public Works Department not lower in rank than an overseer employed in a táluqá, and any officer of the Government Educational Department not lower in rank than the Deputy Educational Inspector of a táluqá, may, under the like circumstances and subject to the same proviso, take part in the discussion or consideration of any such question as aforesaid at any meeting of the táluqá local board of such táluqá or of any committee of the said board. and certain Government officers may attend meetings of táluqá local boards.

If it shall appear to a district local board or to a táluqá local board that the presence of any of the above officers, respectively, is desirable for the purpose aforesaid at any future meeting of such board, or of any committee thereof, it shall be competent to such board by letter addressed to such officer not less than fifteen days previous to the intended meeting to require his presence thereat; and the said officers, unless prevented by sickness or other reasonable cause, shall be bound to attend such meeting. Local Boards may require the presence of the said officers at their meetings.

34. Whenever it appears to the president of a local board, or to the chairman of a committee, unnecessary to convene a meeting, he may instead of so doing circulate a written proposition of his own, or of any other member of such board or committee, or of any executive officer of the board for the observations and votes of the members. President may circulate written propositions.

Previous to circulating any such proposition for the votes of members, the president or chairman may, if he thinks fit, and if the business to which it

relates is of the nature described in clause (10) of section 32, shall obtain thereupon the remarks, if any, which any Government officer, not a member of the board, who is entitled under the provisions of section 33 to be present at any meeting at which such proposition might be considered, desires to record.

The decision on any proposition so circulated shall be in accordance with the majority of votes of the members who vote upon it, unless a special meeting is convened to consider the proposition under clause (1) or clause (8) of section 32.

Every decision arrived at by the board under this section shall be recorded in the minute-book kept under clause (11) of section 32.

Mode of executing contracts.

35. The president of a local board may, on behalf of the board, enter into any contract or agreement in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf: Provided that the amount or value of such contract or agreement shall not exceed five hundred rupees in the case of a district local board, or two hundred rupees in the case of a táluqá local board.

Every other contract or agreement on behalf of a local board shall be in writing, and shall be signed by the president and by two other members of the board, and shall be sealed with the common seal of the board.

No contract or agreement not executed as in this section provided shall be binding on a local board.

Joint Committees.

Joint committees of two or more local bodies.

36. A district local board may, from time to time, concur with any other district local board or with any municipality or cantonment committee, or with more than one such local board, municipality or committee—

(*a*) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested and in appointing a chairman of such committee; and

(*b*) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work and any power which might be exercised by either or any of such bodies; and

(*c*) in framing and modifying rules for regulating the proceedings of any such committee and the conduct of correspondence relating to the purpose for which the committee is appointed.

If any difference of opinion arises between local bodies acting under this section, the decision thereupon of Government shall be final.

Personal liability of Members.

Local funds ordinarily liable for all costs and expenses incurred by boards,

37. Except as is hereinafter otherwise provided, no member of a local board shall be personally liable in respect of any contract or agreement made, or for any expense incurred by, or on behalf of such board; the local fund at the disposal of each local board shall be liable for and be charged with all[1] costs in respect of any such contract or agreement and all such expenses:

but members to be held responsible for misapplied funds.

Provided that every member of a local board shall be personally liable for the misapplication of any fund to which he shall have been a party, or which shall have happened through, or been facilitated by, gross neglect of his duty as a member, and may be sued for recovery of the moneys so misapplied as if such moneys had been the property of the Government.

III.—Of the Officers and Servants of Local Boards.

Schedule of establishment to be prepared and sanctioned by district local boards.

38. Every district local board may engage and pay such officers and servants as it shall deem necessary and proper to maintain for the efficient execution of its duties and the duties of the táluqá local boards in the district under this Act, and shall from time to time prepare and sanction a schedule of the staff to be so maintained, setting forth the designations and grades of the different officers and servants, the boards under which they are to be respectively employed, their respective duties, and the amount and nature of the salaries, fees and allowances to be paid to each, and determining which of the said officers and servants are to be maintained permanently and which temporarily only.

Until a schedule is prepared and sanctioned under this section the establishment, if any, entertained in any district for the administration of local funds on the day previous to the date notified by the Governor in Council under section 13 for each district shall be deemed to have been duly sanctioned and appointed under the foregoing provisions for such district.

Local boards to frame regulations—

39. Every district local board may from time to time frame[1] regulations—

for fixing the amount of the security to be furnished;

(*a*) fixing the amount and nature of the security to be furnished by any officer or servant maintained by the board from whom it may be deemed expedient to require security;

for regulating leave;

(*b*) for regulating the grant of leave to the permanent officers and servants maintained by the board;

[1] As to rules, *see* note to s. 32, *supra*, p. 840.

for settling absentee allowances;

(*c*) for authorising the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave;

for fixing acting allowances;

(*d*) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave;

for regulating length of service;

(*e*) for regulating the period of service of all such officers and servants;

for fixing pensions, etc.

(*f*) for determining the conditions under which such officers and servants, or any of them, shall, on retirement, receive pensions, gratuities or compassionate allowances, and the amount of such pensions, gratuities or compassionate allowances;

for contributing to provident funds;

(*g*) for authorizing the payment of contributions at certain prescribed rates and subject to certain prescribed conditions to any pension or provident fund which may, with the approval of the said board, be established by the said officers and servants:

Provided that—

(*h*) if an officer is lent to any local board by the Government, or if an officer is employed partly in the service of Government and partly in the service of a local board, such board shall contribute to his pension and leave allowances to such extent as may be required by the rules in this behalf from time to time in force, and shall not, except with the assent of Government, dispense with his further services at any time without giving the Government six months' previous notice;

as to approval of regulations by Government.

(*i*) no regulation made by any district local board under this section shall have effect unless and until it has been approved by the Governor in Council.

Punishment and dismissal of officers and servants.

40. The power of punishing or dismissing any officer or servant maintained by a district local board shall, subject to any regulation framed under the last preceding section and to any rule or order made by the Governor in Council under section 69, vest in the said board.

IV.—Of the Property and Liabilities of Local Boards.

Vesting of Property.

Transfer to local boards of property

41. All such immoveable and other property as is held by or in trust for any committee for the purposes of the Bombay Local Funds Act, 1869,[1] Bom. III of 1869.

[1] *Supra*, p. 492.

Bom. VIII of 1865.

or the [1] Sindh Local Funds Act, 1865, shall, upon and after the date notified by the Governor in Council under section 13 for each district, vest in the district local board or the táluqá local board established hereunder having authority over the same local area to which such committee's functions extended, but subject to all charges and liabilities affecting the same. and assets of superseded committees.

It shall be competent to the Governor in Council from time to time to direct whether any such property as aforesaid shall vest in the district local board or the táluqá local board having authority as aforesaid, and any such direction of the Governor in Council shall be conclusive.

42. * * * * * * * * * * * *[2]

Every road, building, or other work constructed by a local board shall vest in the board by which it has been constructed. Vesting of future local works.

Liabilities.

43. It shall be competent to the Governor in Council from time to time to direct whether the liability for any such debt or other obligation, or any such contract, matter or thing as is described in the proviso to section 2, shall fall upon the district local board or the táluqá local board having authority in the local area in which such debt or other obligation was incurred, or such contract entered into, or such matter or thing engaged to be done, and any such direction of the Governor in Council shall be conclusive. Distribution of existing liabilities between district and táluqá local boards.

V.—Of Revenue and Expenditure.

Local Funds.

44. There shall be formed in each district a fund which shall be called "The Local Fund," and which shall be kept in the Government treasury. Local funds where to be kept and of what to consist.

To it shall be credited—

(*a*) in Sindh, the net proceeds (after deducting the expenses of assessment and collection) of the cess on land and of the shop-tax levied under the [1]Sindh Local Funds Act, 1865. Bom. VII[1] of 1865.

(*b*) elsewhere, the net proceeds (after deducting the expenses of assessment and collection) of the cess levied under the [3]Bombay Local Funds Act, 1869, in the district; and Bom. III of 1869.

wherever thi Act is in force—

(*c*) the net proceeds (after deducting the expenses, if any, of collection

[1] *Supra*, p. 454.

[2] The first paragraph of s. 42 (as to the vesting of other property than that referred to in s. 41), was repealed by the Bombay Local Boards Amendment Act, 1885 (Bom. Act 4 of 1885), s. 2.

[3] *Supra*, p. 492.

and of the maintenance of the ferries) of all public ferries established in the district under the Bombay Ferries Act, 1868[1], and all penalties inflicted and levied under the said Act in the district; and Bom. II of 1868.

(*d*) the net proceeds (after deducting the expenses, if any, of collection) of all tolls and leases of tolls on roads and bridges vested in the local boards under section 41, * * * *[2] or constructed by the local boards at the cost of the local fund under this Act, levied in the district under [3]Bombay Act III of 1875; and

(*e*) such portion of the net proceeds of fees, fines and penalties levied under [4]Bombay Act VIII of 1866 (*an Act to regulate and restrict the sale of poisons in the Bombay Presidency*) as the Collector, under section 10 of the said Act, from time to time, directs; and

(*f*) the proceeds of all fees levied in the district under the [5]Bombay Land-revenue Code, 1879, for permission to remove sand or to quarry; and Bom. V of 1879.

(*g*) all sums placed by Government to the credit of the fund under section 1 (*b*) of [6]Act XVIII of 1883, or otherwise, or contributed by private persons; and

(*h*) all sums received by any local board in the district in execution of this Act:

Provided that, when a public ferry, road or bridge is partly in one district and partly in another, the Governor in Council may assign to the local fund of each district such proportion of the net proceeds of such ferry, or of the toll, or of the lease of the tolls levied on such road or bridge, as he shall think fit.

Local funds by what boards to be expended.

45. The local fund of a district shall be available for expenditure for any of the purposes of this Act as follows, namely:—

(*a*) by or under the direction of each táluqá local board—

(1) the whole of the sums described in clauses (*e*) and (*f*) of the last preceding section levied in the táluqá; and

(2) the portion accruing within the area subject to the authority of such board of any sums which may be placed by Government

[1] *Supra*, p. 486.

[2] The words "or by order of the Governor in Council under s. 42," were repealed by the Repealing and Amending Act, 1895 (16 of 1895).

[3] Tolls on Road and Bridges Act, 1875 (Bom. Act 3 of 1875), *supra*, p. 544.

[4] Bombay Poisons Act, 1866 (Bom. Act 8 of 1866), has not been republished. The Act will be repealed when notified by the Poisons Act, 1904 (1 of 1904).

[5] *Supra*, p. 631.

[6] Act 18 of 1883 was repealed by Act 1 of 1891, s. 10. See now the Cattle-trespass Act, 1871 (1 of 1871), s. 31, as modified up to 1st May, 1906.

to the credit of the fund under section 1 (*b*) of [1]Act XVIII of 1883; and

(3) all other sums placed to the credit of the fund by the Government or contributed by private persons for expenditure by such board within the area subject to its authority; and

(4) all sums described in clause (*h*) of the last preceding section received by it or on its account; and

(5) the balance of the revenue described in clause (*a*) or clause (*b*) of the last preceding section levied in the area subject to its authority, after the district local board shall have made provision therefrom for the portion to be devoted to educational purposes under section 48 and for such share of the charges payable by the district local board under sections 46 and 49 as the said board shall deem equitable;

(*b*) by or under the direction of the district local board, the remaining portion of the fund.

Expenditure by the local boards out of the local fund shall ordinarily be made within the areas respectively subject to their authority only, but may, with the sanction of Government and for the use or benefit of the said area, be made outside of that area on any of the purposes of this Act.

General charges to be defrayed by district local boards.

46. Every district local board shall, from the portion of the local fund at its disposal, defray—

(*a*) the salaries and other emoluments of all officers and servants maintained under section 38, and the pensions or other retiring allowances, if any, of such officers and servants;

(*b*) the expenses attending the [2] audit of the accounts of the local boards of the district as hereinafter provided; and

(*c*) such sum as shall from time to time be fixed by Government for the payment of the salaries, allowances and contributions for pension, according to the [2] rules from time to time prescribed by Government, of any officers or servants employed in any Government office or elsewhere on the business of the local boards of the district, and of the incidental expenses, if any, incurred by Government or any of the officers of Government in the district for any of the purposes of this Act.

[1] See last footnote on preceding page.

[2] For rules under s. 46, in conjunction with s. 69, as to audit of accounts of expenditure on works of local boards, *see* those noted in the list prefixed to the Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. cxlvi.

Assignments of certain portions to municipalities or cantonment committees.

47. Every district local board shall assign and cause to be paid to every municipality and cantonment committee within the district for which such board has been established, out of the district local fund, a sum equal to two-thirds of the amount of revenue described in clause (*a*) or clause (*b*) of section 44 levied from lands or shops within the municipal district or cantonment subject to such municipality or committee, and may, in its discretion, assign and pay to every such municipality or committee the whole of the said amount (which amount shall, at the request of the district local board, be ascertained and certified by the Collector).

The sum so assigned and paid shall be expended by the municipality or cantonment committee only for such purposes as are described in section 30, or for the remuneration of officers and servants whom they entertain for any of the said purposes; and a portion thereof equal to not less than one-third of the revenue described in clause (*a*) or clause (*b*) of section 44 levied from lands or shops within the municipal district or cantonment subject to such municipality or committee shall be expended by it for educational purposes only as defined in section 30, clause (*d*).

Expenditure for educational purposes to be made by district local boards only.

48. In every district the expenditure from the local fund for educational purposes as defined in section 30, clauses (*d*) and (*j*), shall be made by the district local board only, and for this purpose a sum equal to not less than one-third of the revenue described in clause (*a*) or clause (*b*) of section 44 (after deducting one-third of the amount thereof levied from lands or shops in any municipal district or cantonment), shall be set apart by the said board for expenditure by it on the said purposes: Provided—

(*a*) that no portion of the revenue so set apart levied in the area subject to the authority of any táluqá local board shall, except with such board's consent, be expended out of the said area; and

(*b*) that the charges to be necessarily defrayed by each district local board on account of primary education, the extent of the independent authority of district and táluqá local boards in respect of education and their relations generally with the Government Educational Department and to each other in educational matters shall be from time to time[1] prescribed by the Governor in Council.

The provisions of clause (*b*) of this section shall apply also to municipalities and cantonment committees in respect of the sums to be expended by them under section 47 for educational purposes.

Provisions.

49. The responsibility of district and táluqá local boards, respectively, for

[1] For such rules, *see* those noted on. p. cxlvi of the list prefixed to the Bombay Local Rules and Orders, Vol. II, Ed. 1898.

expenditure in respect of matters other than education shall be determined in accordance with the following provisions, namely :—

for determining by which boards' expenditure should be incurred for other purposes.

(*a*) each local board shall be responsible for the maintenance of any building or other property which vests in it and of any work which has been executed at its cost ;

(*b*) district local boards shall be responsible for the construction, maintenance and repair of the main roads and other means of through communication in the district vesting in them, the maintenance of public vaccination and dispensaries and other similar local services and institutions of general benefit to the district, and for all matters in which two or more táluqás are, or may be, interested ;

(*c*) táluqá local boards shall be responsible for the construction and maintenance of all other roads and works which are purely local and for all local services and institutions not maintained by the district local board ;

(*d*) large works of the nature described in the last preceding clause, which are beyond the means at the disposal of a táluqá local board, may be undertaken by the district local board at its own cost, or the district local board may assist the táluqá local board in undertaking the same by a grant-in-aid conditional upon a certain portion of the cost being contributed by the táluqá local board or by private persons, or by both.

If a difference of opinion arises between a district and a táluqá local board as to which board is responsible for any charge or any work, institution or service, the question shall be referred for the decision of the Commissioner, which shall be final.

How the local fund shall be drawn against.

50. Subject to the provisions of sections 65, 66 and 67, no payment shall be made from the Government treasury out of a local fund except upon a cheque or letter of credit signed by the president and one other member of the local board which requires such payment.

Payment of any sum in excess of fifty rupees shall be made by a local board by means of a cheque [1] [or of a letter of credit] signed as aforesaid and not in any other way.

Sums not exceeding fifty rupees may be paid by the president, or by such officer as each local board appoints for this purpose, in cash, cheques for sums not in excess of three hundred rupees each, signed as aforesaid, being drawn from time to time to cover such payments.

[1] These words were inserted by the Bombay Local Boards further Amendment Act, 1885 (Bom. Act 4 of 1885), s. 3, *infra*, p. 861.

Accounts.

Accounts to be kept in form prescribed by Government.

51. Accounts of the receipts and expenditure of every local board shall be kept in such form as the Governor in Council from time to time [1]prescribes, and shall be balanced annually on the last day of every financial year, ending on the 31st March.

Publication of abstract of accounts annually.

52. An abstract of the accounts of every local board showing the amounts drawn from the local fund, the charges for establishment, and for all other expenses, the works undertaken and the sums expended on each work, and the balance, if any, in hand, shall be forwarded by the president of the board every year, as soon as may be after the 31st March, in such form as the Governor in Council from time to time [1]prescribes, to the Collector or to such other officer as the Collector nominates in this behalf, and shall be published in the official Gazette.

Annual Budget Estimates.

Return to be rendered to local boards of actual and estimated income of local funds.

53. To enable local boards to prepare annual budget estimates, as hereinafter provided, the Collector shall annually render to each táluqá local board in his district, not later than the 1st October, in such form as the Governor in Council from time to time[1] directs, a return setting forth, for the táluqá for which such board is established—

(*a*) the actual receipts in the last complete official year ;
(*b*) a revised estimate of the receipts in the current official year ; and
(*c*) a first estimate of the probable receipts in the next following official year ;

} from each of the sources from which the local fund is derived ;

and, to the district local board, a similar return for the whole district.

The district local board shall, not later than the 1st November, communicate to each táluqá local board in the district the probable amount of the revenue described in clause (*a*) or clause (*b*) of section 44 which will be at the disposal of such táluqá local board in the next following official year, explaining the manner in which, with reference to section 45, clause (*a*), paragraph (5), the said amount has been fixed.

Preparation of annual budget

54. Every local board shall have prepared, on or before the fifteenth day of November every year, in such form as the Governor in Council from

[1] For rules regulating the general administration of local funds made under ss. 51 to 54, in conjunction with ss. 60 and 69, *see* pp. cxlvi to cxlviii of the Bombay Local Rules and Orders, Vol. II, Ed. 1898.

time to time prescribes,[1] a budget estimate of the income and expenditure of the board for the next official year. estimates of income and expenditure.

The board shall, on or as soon as may be after the said date, consider the budget estimate so prepared and approve of the same with or without modification as they shall think fit. Consideration and approval of budget estimates by the boards.

55. Every budget estimate, as approved by a táluqá local board, shall be forthwith submitted to the district local board to which such táluqá board is subordinate, which may— Táluqá local boards' budget estimates to be submitted for sanction to the district local board.

(*a*) as often as it thinks fit, send back such estimate to the táluqá local board for revision, or

(*b*) sanction any budget estimate, or revised budget estimate submitted to it, either as it stands, or subject to such modification as it deems expedient.

56. Every local board may, at any time during the year for which any such budget estimate has been approved or sanctioned, cause a revised or supplementary budget estimate to be prepared. Every such revised or supplementary estimate shall be considered and approved by the local board, and, in the case of a táluqá local board, submitted to the district local board for sanction, in the same manner as if it were an original annual budget estimate. Revised or supplementary budget estimates may be made when necessary.

Re-appropriations of funds in a budget estimate may be made from time to time subject to the same approval or sanction as is required for the budget estimate. Re-appropriations to be subject to approval or sanction like budget estimates.

57. No budget estimate of a local board and no re-appropriation of a budget item shall be approved or sanctioned as aforesaid, unless— Budget estimates and re-appropriations not to be approved or sanctioned unless an annual balance is provided for,

(*a*) provision is therein made for such board's having at its credit at the end of the official year a balance of not less than five thousand rupees in the case of a district local board, and of two hundred rupees in the case of a táluqá local board;

(*b*) for every work, whether of first construction or of repair, there is attached to the budget estimate in which provision is made therefor a detailed estimate of the cost of such work which has been approved by the board and [2]* * in the case of a road of which the cost is to exceed, on an average, fifty rupees per mile, or of any and, in the case of works, detailed estimates are attached.

[1] For rules regulating the general administration of local funds made under ss. 51 to 54, in conjunction with ss 60 and 69, *see* pp. cxlvi to cxlviii of the list prexfied to the Bombay Local Rules and Orders, Vol. II, Ed. 1898.

[2] The words "for which" were repealed by the Bombay Local Boards further Amendment Act, 1885 (Bom. Act 4 of 1885), *s. 4*, *infra*, p. 861.

other work of which the total cost is to exceed five hundred rupees, plans and estimates have been prepared or approved by the Government Executive Engineer of the district.

Copies of budget estimates and re-appropriation statements to be sent to the Collector.

A copy of every budget estimate and a statement of every re-appropriation as finally approved or sanctioned under the foregoing provisions shall be forwarded by the president of each local board without delay to the Collector, or such officer as he nominates in this behalf. Annual budget estimates shall be so forwarded not later than the 10th December.

Except on a pressing emergency, no sum not provided for in a budget estimate to be expended.

58. Save in case of pressing emergency, no sum shall be expended by, or on behalf of, any local board, unless such sum is included in some budget estimate at the time in force which has been approved or sanctioned as aforesaid.

If any sum is so expended on a pressing emergency, the circumstances shall be forthwith communicated in writing by the president to the Collector (through the district local board, if the sum has been expended by a *táluqá* local board), together with an explanation of the way in which it is proposed by the local board to cover such extra expenditure.

Provision as to budget estimates in force when this Act comes into operation.

59. Every budget estimate framed by, or binding upon, any committee or authority heretofore charged with the administration of local funds under the [1] Bombay Local Funds Act, 1869, or the [2] Sindh Local Funds Act, 1865, and in force on the date which shall be notified by the Governor in Council under section 13 for each district shall be deemed to have been duly prepared and approved or sanctioned under this Act so far as it relates to the period which intervenes between the date aforesaid and the thirty-first day of March next following that date. Bom. III of 1869. Bom. VIII of 1865.

If any such budget estimate would, but for the passing of this Act, have force and effect after the said thirty-first day of March, the local board having authority over the local area in which it would so have effect and force may set it aside as from that date: Provided that works in progress at the said date under any such budget estimate shall not be discontinued except with the sanction of the Governor in Council.

Audit of Accounts.

Audit to be made periodically under the orders of Government.

60. The accounts of every local board shall be examined and audited at such intervals, in such manner and by or under the superintendence of such auditor as the Governor in Council from time to time [3] directs.

[1] *Supra*, p. 492.
[2] *Supra*, p. 454.
[3] For rules under s. 60, in conjunction with ss. 51 to 54 and s. 69, *see* those noted in the list prefixed to the Bombay Local Rules and Orders, Vol. II, Ed. 1898, pp. cxlvi to cxlviii.

Every auditor appointed under this section shall have access to the accounts and to all books, deeds, contracts, vouchers, and all other documents and records in the possession, or under the control, of the local board, and the costs of audit shall be paid by the district local board at such rate as Government shall determine. Auditor to have power to see all accounts, etc.; costs of audit.

The report of the auditor on each local board shall be published in the official Gazette, and a copy thereof shall be sent to each board concerned and to the Collector. A copy of the report on every táluqá local board shall also be sent to the district local board of the district.

VI.—Execution of Works.

61. Such of the works for which plans and estimates prepared or approved by the Government Executive Engineer of the district are required by section 57, clause (*b*), as the Governor in Council shall from time to time in a general or special order [1] direct, shall be executed by the said Executive Engineer, who for this purpose shall exercise the same powers as if he were executing a work for the Government, and shall have control over all officers and servants of a local board, if any, assisting in the execution of any of the said works. Works to be executed by the Government Executive Engineer.

All other works shall be executed by such agency and subject to such supervision as the local board at whose cost any such work is to be executed thinks fit: Provided that any such work shall, at the desire of the said board, be executed by the Government Executive Engineer of the district in the manner prescribed in the first paragraph of this section. Works which may be executed by other agency.

When any work is executed under this section by a Government Executive Engineer either wholly or partly, with the aid of his own Government establishment, such charge shall be payable on account of such establishment by the local board at whose cost the work is being executed as shall be agreed upon between such board and the said Executive Engineer: Provided that no charge shall in any case be made on account of the services of the Executive Engineer. Payment of Government establishment employed by Government Executive Engineer.

VII.—Control.

62. The Collector shall have power— Collector's powers of inspection

(*a*) to enter on and inspect, or cause to be entered on and inspected, any

[1] For rules as to such works, *see* Bombay Government Gazette, 1885, Pt. I A, p. 112, and the Sindh Official Gazette, 1894, Pt. IA, p. 32.

and supervision.

immoveable property occupied by any local board, or any work in progress under it or under its direction;

(*b*) to call for any extract from any local board's or any committee's proceedings, any book or document in the possession of or under the control of a local board, and any return, statement, account or report which he may think fit to require such board to furnish;

(*c*) to require a local board to take into its consideration any objection which appears to him to exist to the doing of anything which is about to be done or is being done by such board, or any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the board, and to make a written reply to him within a reasonable time stating its reasons for not desisting from doing, or for not doing, such thing.

All or any of the powers given to the Collector under this section may be delegated by him to the Assistant or Deputy Collector in charge of the táluqá in the case of a táluqá local board.

Power of Commissioner to prevent extravagance in establishments.

63. If, in the opinion of the Commissioner, the number of persons maintained by a district local board as officers or servants, or whom a district local board proposes to maintain, or the remuneration assigned by the board to those persons or to any particular person, is excessive, the said board shall, on the requirement of the Commissioner reduce the number or remuneration of the said persons or person:

Provided that the district local board may appeal against any such requirement to the Governor in Council, whose decision shall be conclusive.

Collector's power of suspending execution of orders, etc., of local boards.

64. If, in the opinion of the Collector, the execution of any order or resolution of a local board, or the doing of anything which is about to be done or is being done, by or on behalf of a local board, is causing, or is likely to cause, injury or annoyance to the public, or to lead to a breach of the peace, he may, by order in writing under his signature, suspend the execution or prohibit the doing thereof.

Collector's order to be reported to Commissioner, who may confirm or modify it.

When a Collector makes any order under this section, he shall forthwith forward to the Commissioner and to the local board affected thereby a copy of the order, with a statement of the reasons for making it, and it shall be in the discretion of the Commissioner to rescind the order, or to direct that it continue in force with or without modification, permanently or for such period as he thinks fit.

Every case under this

The Commissioner shall forthwith submit to Government a report of every case occurring under this section, and the Government may revise or modify

any order made therein, and make in respect thereof any other order which the Commissioner could have made.

section to be reported to Government for their final orders.

65. In cases of emergency the Collector may provide for the execution of any work, or the doing of any act, which a local board is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the local board.

Extraordinary powers of Collector in case of emergency.

If the expense and remuneration are not so paid, the Collector may direct the officer in charge of the treasury in which the local fund is kept to pay the expense and remuneration, or as much thereof as is possible from the balance of such fund in his hands.

The Collector shall forthwith report to the Commissioner every case in which he uses the powers given to him by this section.

66. When the Governor in Council is informed, on complaint made, or otherwise, that a local board has made default in performing any duty imposed on it by or under this Act, the Governor in Council, if satisfied after due enquiry that the local board has been guilty of the alleged default, may fix a period for the performance of that duty.

Power of Government to provide for performance of duties in default of local board.

If that duty is not performed within the period so fixed, the Governor in Council may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the local board.

If the expense and remuneration are not so paid, the Governor in Council may direct the officer in charge of the treasury in which the local fund is kept to pay the expense and remuneration, or as much thereof as is possible, from the balance of such fund in his hands.

67. If, in the opinion of the Governor in Council, a local board is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act, or otherwise by law, or exceeds or abuses its powers, the Governor in Council may by an order published, with the reasons for making it, in the official Gazette, declare the local board to be incompetent or in default, or to have exceeded or abused its powers, as the case may be and supersede it for a period to be specified in the order.

Power of Government to supersede local boards in case of incompetency default or abuse of powers.

Consequences of exercise of such power.

When a local board is so superseded, the following consequences shall ensue:—

(*a*) all members of the board shall, as from date of the order, vacate their offices as such members;

(*b*) all powers and duties of the board may, during the period of supersession, be exercised and performed by such person or persons as the Governor in Council, from time to time, appoints in that behalf;

(*c*) where a local board is superseded, all property vested in it shall, during the period of supersession, vest in Government.

On the expiration of the period of supersession specified in the order, the board shall be re-established by the election or appointment of new members under the provisions of this Act applicable thereto.

Powers of Government and of the Commissioners over Collectors, etc.

68. In all matters connected with this Act, the Governor in Council and the Commissioners and Collectors shall have and exercise the same authority and control over the Commissioners, the Collectors and their subordinates, respectively, as they have and exercise over them in the general and revenue administration.

VIII.—Rules.

Purposes for which rules and orders may be made.

69. The Governor in Council may from time time make and from time to time vary or rescind [1] rules or orders consistent with this Act—

(*a*) prescribing the number of members for each local board and the proportion of elective and nominated members for each;

(*b*) determining the mode in which [2] elections of members of local boards other than elections under sections 6 (*c*) and 7 (*c*), and the places at which and the authorities, if any, under whose superintendence such elections shall be held, and the manner in which votes thereat shall be recorded, and how and by whom the results of such elections shall be declared;

(*c*) prescribing such general conditions as shall seem fit as to the manner in which the business of local boards shall be conducted and as to the appointment, control, punishment, and dismissal of the officers and servants of local boards;

(*d*) generally, for the guidance of local boards and Government officers in all matters connected with the administration of this Act and not therein specially provided for.

All rules and orders so made shall be published in the official Gazette.

[1] For rules issued under this section, in conjunction with ss. 4, 6 and 7, *see* note to s. 4, *supra*, and for those made in conjunction with ss. 51 to 54 and s. 60, *see* note to ss. 51 to 54.

[2] For rules regarding the election of members, *see* those noted in the list prefixed to the Bombay Local Rules and Orders, Vol. II, Ed. 1898, pp. cxlviii and cxlix.

IX.—Miscellaneous.

Penalty for member, officer or servant of a local board being interested in any contract etc., with that board.

70. If any member of a local board or any officer or servant maintained by or employed under a local board has, directly or indirectly, any share or interest in any work done by order of the board of which he is a member or by which he is maintained or under which he is employed or in any contract with or under such board, he shall be liable, on conviction before a Criminal Court, to a fine which may extend to five hundred rupees :

Provided that the penalty herein prescribed and the disqualification for membership of a local board prescribed in section 11, clause (*f*), shall not be deemed to apply by reason only of a person—

(*a*) having a share in any joint-stock company which shall contract with or be employed by or on behalf of, the local board, or

(*b*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the local board may be inserted, or

(*c*) holding a debenture or being otherwise concerned in any loan raised by or on behalf of the local board, or

(*d*) being professionally engaged on behalf of the local board as a legal practitioner.

Nevertheless it shall not be lawful for a person having any share or interest such as is described in the above clauses (*a*) and (*b*) to act as a member of a local board in any matter relating to a contract or agreement between the local board and such company or the manager or publisher of such newspaper.

Members, etc., of boards to be public servants.

71. Every member of a local board and every officer and servant maintained by a district local board shall be deemed to be a public servant within the meaning of section 21 of the [1] Indian Penal Code.

XLV of 1860.

Acquisition of land.

72. When any land is required for the purposes of this Act, the Governor in Council may, on the request of the local board requiring it, proceed to acquire it under the provisions of the [2] Land Acquisition Act, 1870 ; and, on payment by the local board of the compensation awarded under that Act, the land shall vest in the local board.

X of 1870.

Powers and duties of Government to be discharged in Sindh by the Commissioner.

73. The power and duties conferred and imposed by this Act on the Governor in Council or the Government, except those so conferred and imposed by sections 8, 63, 64, 67 and 68, shall, in Sindh, be exercised and performed by the Commissioner.

[1] For Act 45 of 1860, *see* the reprint as modified up to 1st April, 1903.
[2] See now the Land Acquisition Act, 1894 (I of 1894), General Acts, Vol. VI.

Limitation of suits, etc.

74. No action shall be commenced against any local board, or against any officer or servant of a local board, or any person acting under the orders of a local board, for anything done, or purporting to have been done, in pursuance of this Act, without giving to such local board, officer, servant or person one month's previous notice in writing of the intended action and of the cause thereof, nor after three months from the date of the act complained of;

and in the case of any such action for damages, if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

Amendment of Bombay Act III of 1869.

75. In the [1]Bombay Local Funds Act, 1869 :— Bom. III of 1869. Bom. V of 1879.

(*a*) the words "Bombay Land-revenue Code, 1879," shall be substituted for the words "(Bombay) Act I of 1865," wherever they occur; and

(*b*) the words "Commissioner of the division" shall be substituted in section 8 for the words "Revenue Commissioner;" and

(*c*) the words "if no such rate is so recorded or if the rate so recorded is" shall be substituted in rule 3 of section 7 for the words "if this rate be."

Amendment of Bombay Act VIII of 1865.

76. In the [2] Sindh Local Funds Act, 1865, section 2, the word "of" shall be substituted for the words "heretofore customarily levied, namely." Bom. VIII of 1865.

Amendment of Bombay Act III of 1875.

77. For clause (2) of section 3 of [3] Bombay Act III of 1875 the following clause shall be substituted, namely :—

"*Clause 2.*—The word 'persons' in this section shall be deemed to include local boards established under the Bombay Local Boards Act, 1884."

SCHEDULE.

(*See section 2.*)

Enactment.	Subject.	Extent of repeal.
[2]Bombay Act VIII of 1865	An Act to authorize taxation in the province of Sindh for objects of public local utility and improvement.	In the preamble the words "and to aid in defraying the expense of the Department of Public Works in the Province of Sindh." Sections 6, 7 and 8.

[1] *Supra*, p. 492.
[2] *Supra*, p. 454.
[3] *Supra*, p. 544.

SCHEDULE.—*continued.*

Enactment.	Subject.	Extent of repeal.
[1] Bombay Act III of 1869.	An Act to provide in the Presidency of Bombay funds for expenditure on objects of local public utility and improvement, and to constitute local committees for the due administration of such funds.	In the title the words "and to constitute local committees for the due administration of such funds." In the preamble the words "and whereas it is expedient to constitute local committees to provide for the due appropriation of such funds to the purposes aforesaid." Sections 1, 2, 3, 4, 5, 9, 10, 11, 12 and 13.
[1] Bombay Act II of 1868.	An Act to amend the law relating to public ferries in the Presidency of Bombay.	Section 16.
[1] Bombay Act III of 1875.	An Act for enabling Government to levy tolls on public roads and bridges in the Presidency of Bombay.	Section 12.

BOMBAY ACT No. IV OF 1885.[2]

[*20th October, 1885.*]

Bom. I of 1884.

An Act to amend the Bombay Local Boards Act, 1884, * * *[3]

[NOTE.—The amendments made by this Act are incorporated in Bom. Act I of 1884, *supra*, pp. 840 to 861.]

BOMBAY ACT No. IV OF 1886.[4]

[*10th November, 1886.*]

Bom. V of 1879.

An Act to amend the Bombay Land-revenue Code, 1879.

WHEREAS, for the purpose of assuring to holders of unalienated land the full advantage of all improvements in their holdings effected by them or at their cost, it is expedient to define more clearly the conditions affecting the

[1] *Supra*, pp. 492, 486 and 544, respectively.

[2] For the Statement of Objects and Reasons, *see* Bombay Government Gazette, 1885, Pt. V, p. 2; and for Proceedings in Council, *see ibid*, p. 25.

[3] The words "and the Bombay District Municipal Act Amendment Act, 1884," were repealed by the Repealing and Amending Act, 1903 (1 of 1903), s. 4.

[4] For the Statement of Objects and Reasons, *see* Bombay Government Gazette, 1885, Pt. V, p. 17; and for Proceedings in Council, *see ibid*, 1886, pp. 73 and 137.

Schedule B. of Bombay Act III of 1886 revived after the repeal of the Act by Bom. Act I of 1904, by an amendment made to the Schedule of that Act by Bom. Act 4 of 1905, is reprinted as an appendix to Bom. Act I of 1904, Vol. IV of this Code.

revision of land-revenue assessments, and with this object to amend the Bombay Land-revenue Code, 1879; It is enacted as follows :— Bom. V of 1879.

[NOTE.—The amendments made by this Act are incorporated in Bom. Act V of 1879, *supra*, pp. 631 to 704.]

BOMBAY ACT No. V OF 1886.[1]

[*28th January, 1887.*]

An Act to amend Bombay Act III of 1874.

WHEREAS it is expedient to amend the Bombay Hereditary Offices Act, 1874, in manner hereinafter appearing; It is enacted as follows :— Bom. III of 1874.

Amendment of section 5.

1. For section 5 of the said Act the following section shall be substituted (namely) :—

[*Supra*, p. 523.]

Female members to be postponed.

2. Every female member of a wátán family other than the widow of the last male owner, and every person claiming through a female, shall be postponed in the order of succession to any wátán, or part thereof, or interest therein, devolving by inheritance after the date when this Act comes into force to every male member of the family qualified to inherit such wátán, or part thereof, or interest therein.

Widow's interest.

The interest of a widow in any wátán or part thereof shall be for the term of her life or until her marriage only.

Amendment of section 10.

3. In section 10 of the said Act the words "or may pass" shall be inserted after the words "or have so passed."

4. [*Repeal of portion of section 11.*] *Rep. Act XVI of 1895.*

New section added after section 11.

5. After section 11 of the said Act the following section shall be inserted, namely :—

[*Supra*, p. 526.]

Amendment of section 30.

6. In section 30 of the said Act the word "officiators" shall be substituted for the word "sharers."

Amendment of section 35.

7. In section 35 of the said Act the words "notice or" shall be inserted after the word "which."

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[1] For the Statement of Objects and Reasons, *see* Bombay Government Gazette, 1885, Pt. V, p. 5, and *ibid*, 1886, p. 165; for Report of the Select Committee, *see ibid*, p. 31; and for Proceedings in Council, *see ibid*, p. 26, and *ibid*, 1886, pp. 94 and 178.

As to the local repeal and amendment of Bom. Act 5 of 1886, *see* the Mátádars Act, 1887 (Bom. Act 6 of 1887), s. 3, *infra*, p. 936.

8. For section 38 of the said Act the following section shall be substituted (namely) :— Amendment of section 38.

[*Supra*, p. 532.]

9. For section 45 of the said Act the following section shall be substituted (namely) :— Amendment of section 45.

[*Supra*, p. 534.]

10. For section 46 of the said Act the following shall be substituted (namely) :— New section substituted for section 46.

[*Supra*, p. 534.]

11. In section 50 of the said Act, the word "general" shall be substituted for the word "known". Amendment of section 50.

12. For section 53 of the said Act the following section shall be substituted (namely :)— New section substituted for section 53.

[*Supra*, p. 536.]

13. For section 60 of the same Act the following section shall be substituted (namely) :— New section substituted for section 60.

[*Supra*, p. 537.]

14. For section 70 of the said Act the following section shall be substituted (namely) :— New section substituted for section 70.

[*Supra*, p. 540.]

15. (*1*) In section 84 of the said Act the following words shall be inserted after the word "purpose", *viz.*— Amendment of section 84.

[*Supra*, p. 543.]

(*2*) And the following paragraph shall be added to the said section, *viz.*—

[*Supra*, p. 543.]

16. The following schedule shall be added to the said Act (namely) : — Addition of a new schedule.

[*Supra*, p. 544.]

THE KARÁCHI PORT TRUST ACT, 1886.

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BOMBAY ACT No. VI of 1886.[1]

[*8th February, 1887.*]

An Act to vest the Port of Karáchi in a Trust.

Whereas it is expedient to vest the port of Karáchi in a trust and to provide for the management of the affairs of the said port by trustees; It is enacted as follows :— Preamble.

I.—Preliminary.

1. This Act may be called the Karáchi Port Trust Act, 1886. Short title.

2. In this Act, unless there be something repugnant in the subject or context,— Definitions.

(1) "port" means the port of Karachi as defined for the purposes of this Act;

(2) "high-water mark" means a line drawn through the highest points reached by ordinary spring-tides at any season of the year;

(3) "low-water mark" means a line drawn through the lowest points reached by ordinary spring-tides at any season of the year;

(4) "land" includes the bed of the sea below high-water mark, and also things attached to the earth or permanently fastened to anything attached to the earth;

(5) "master", when used in relation to any vessel, means any person having for the time being the charge or control of such vessel;

(6) the word "goods" includes wares and merchandise of every description;

(7) "owner", when used in relation to goods, includes any consignor, consignee, shipper or agent for the sale or custody of such goods; and, when

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, Pt. V, p. 42; for Report of the Select Committee, *see ibid*, p. 106; and for Proceedings in Council, *see ibid*, pp. 100 and 190.

used in relation to any vessel, includes any part-owner, charterer, consignee or mortgagee in possession thereof.

Power to define and alter limits of port.

3. Government may, with the approval of the Governor General in Council, by notification in the *Bombay Government Gazette*—

(*a*) define the [1] limits of the port for the purposes of this Act, and

(*b*) from time to time alter such limits.

Such limits may extend to any part of the navigable approaches to the port, and may include any wharves, tramways, warehouses, sheds and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance and good government of the port, whether within or without high-water mark, and, subject to any rights of private property therein, any portion of the shore within fifty yards of high-water mark.

II.—Of the Board of Trustees.

Constitution of Board.

Act to be carried out by trustees

4. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a board to be called "The Trustees of the Port of Karáchi", and such Board, hereinafter referred to as "the Board" shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.

Number of trustees.

[2] **5.** The Board shall consist of eleven members, of whom not less than two shall be natives of India residing in Karáchi.

Appointment of chairman and vice-chairman.

6. Government shall from time to time appoint a person to be chairman of the Board and may, if they think fit, from time to time appoint a person to be vice-chairman of the Board. Any person so appointed may be a public officer or not.

The chairman and, if any be appointed, the vice-chairman of the Board shall be trustees.

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[1] For notification defining the limits of the Port, *see* Bombay Government Gazette, 1887, Pt. I, p. 244.

[2] This section was substituted by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 2, Vol. IV of this Code.

The original section was as follows:—

"5. The Board shall consist of nine members, of whom not less than two shall be natives of India residing in Karáchi."

Nomination of other trustees.

[1] **7.** Of the rest of the trustees Government shall appoint the Chief Officer of the North-Western Railway, or such officer of the Railway as the Chief Officer may nominate in his stead, in this behalf, three shall be elected by the members for the time being of the Karáchi Chamber of Commerce, and two shall be elected by the Municipality of Karáchi.

The remaining trustees shall be appointed by Government.

Any trustee elected or appointed under this section may be a public officer or not.

Conduct of elections.

8. The election of trustees by the Karáchi Chamber of Commerce and by the municipal commissioners shall be conducted in such manner as shall from time to time be determined at a meeting of the members of the said Chamber or of the said commissioners, as the case may be, convened in accordance with the rules at the time in force in this behalf. The Secretary to the said Chamber and the President of the Municipality of Karáchi shall, respectively, make a return to the Commissioner of the name of every person so elected.

Nomination by Government in default of election.

In the event of default being made by the Chamber or by the municipal commissioners in electing any trustee under the foregoing provisions within the period hereinafter prescribed in this behalf, it shall be lawful for Government to appoint a person, and the person so appointed shall be deemed to be a trustee as if he had been duly elected by the Chamber, or municipal commissioners, as the case may be.

Publication of names of trustees in the official Gazettes.

9. The name of every person appointed by Government to be chairman or vice-chairman of the Board, and the names of all trustees duly elected or appointed to the Board, shall be published in the *Bombay Government Gazette* and in the *Sind Official Gazette*.

10. [*Term of office of first trustees when to commence.*] *Rep. Bom. Act II of 1902, section 4.*

11. [2]

[2]* * * Every trustee, other than the chairman, shall, unless he becomes in the meantime disqualified, hold office for a term of two years.

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[1] This section was substituted by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 3, Vol. IV of this Code.

The original section was as follows:—

"7. Of the rest of the trustees, one shall be the manager, for the time being, of the North-Western Railway, or such officer of the said Railway as the said manager shall from time to time appoint to act for him in this behalf; two shall be elected by the members for the time being of the Karáchi Chamber of Commerce, and two shall be elected by the municipal commissioners of Karáchi from among their own number. The remaining trustees shall be appointed by the Government.

Any trustee elected or appointed under this section may be a public officer or not."

[2] The first two paragraphs of section 11 and the words "In every other case" in the third paragraph before the words "every trustee" were repealed by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 4, Vol. IV of this Code.

The chairman shall hold office for a renewable period of five years, unless he becomes in the meantime disqualified for being a trustee, or is removed by Government.

12. [1]* * * * * * * *

Time for holding elections and making appointments.

Elections of trustees by the Chamber and by the municipal commissioners to succeed trustees whose term of office expires shall be held on some day not earlier than the fifteenth and not later than the last day of the month of February next preceding the first day of April from which the term of office of the new trustee is to commence; and appointments of such trustees by Government shall be made on some day in the month of March next preceding the said first day of April.

Filling up of casual vacancies.

13. [2](1) In the event of the death, resignation or disqualification of a trustee or of his becoming incapable of acting previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the trustee in whose place he is elected or appointed would have been entitled to hold it if the vacancy had not occurred.

Acting trustees.

[2] (2) If a trustee departs from Karáchi with an intention of being absent for a longer period than three months, or if a trustee shall have been absent from Karáchi for such period, a person shall be elected or appointed as aforesaid to act for such trustee during his absence, or until he shall cease to be a trustee; and the person so acting shall be deemed for all the purposes of this Act to be a trustee.

Saving provision for acting appointment when necessary for less than three months.

[3] (3) Nothing in the last preceding sub-section shall prevent a person being elected or appointed for a shorter period than three months in the place of an absent trustee, on the application of the Board if the absentee be an elective-trustee, or at the discretion of Government if he be a nominee-trustee.

Re-eligibility of trustees.

14. A person who has already been a trustee on one or more occasions shall, if not disqualified under section 15, be again eligible at any time for election or appointment.

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[1] The first paragraph of section 12 was repealed by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 5, Vol. IV of this Code.

[2] These paragraphs were numbered as sub-sections (1) and (2) by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 6, Vol. IV of this Code.

[3] This paragraph was added to section 13 by the Karachi Port Trust Act Amendment Act, 1902 (Bom. Act. 2 of 1902), s. 6, Vol. IV of this Code.

Disqualifications of Trustees.

Disqualifications for office of trustee.

[1] **15.** (1) A person shall be disqualified to be a trustee who—

(*a*) is an uncertificated bankrupt or insolvent; or

(*b*) has been convicted and sentenced to imprisonment for an offence punishable with imprisonment for a term exceeding six months or to transportation, such conviction not having been subsequently reversed or quashed, and whose disqualification on account of such conviction has not been removed by an order, which Government is hereby empowered to make, if it shall think fit, in this behalf; or

(*c*) holds any office or place of profit under the Board; or

(*d*) has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by or on behalf of the Board.

Proviso.

(2) But a person shall not be so disqualified, or be deemed to have any share or interest in such contract or employment by reason only of his having a share or interest in—

(*a*) any lease, sale, exchange or purchase of immoveable property, or any agreement for the same; or

(*b*) any license by the Board, or right by agreement or otherwise with the Board to the sole or preferential use of any railway sidings or any berth for vessels in the docks, wharves, quays, stages, jetties and piers belonging to the Board; or

(*c*) any agreement for the loan of money, or any security for the payment of money only; or

(*d*) any newspaper in which any advertisement relating to the affairs of the Board is inserted; or

(*e*) any joint-stock company which shall contract with, or be employed by or on behalf of, the Board; or

(*f*) the occasional sale to the Board, to a value not exceeding two thousand rupees in any one official year, of any article in which he trades.

Grounds trustees shall vacate office.

[2] **15A.** Any trustee who—

(*a*) becomes disqualified for any of the reasons mentioned in the last preceding section; or

[1] This section was substituted by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 7, Vol. IV of this Code.

[2] Sections 15A and 15B were inserted by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 8, Vol. IV. of this Code.

(*b*) is absent from the meetings of the Board for a period exceeding twelve consecutive months, or without the permission of the Board from six consecutive ordinary meetings of the Board; or

(*c*) acts in contravention of the provisions of the next succeeding section;

shall cease to be a trustee, and his office shall thereupon become vacant.

Restriction on power of trustees to vote or discuss matters in which they are interested.

[1] **15B.** A trustee shall not at any meeting of the Board or a Committee thereof take part in the discussion of, or vote on any matter in which he has directly or indirectly, by himself or his partner, any share or interest such as is described in section 15, or in which he is interested either professionally on behalf of a client or as agent for any person.

Remuneration of Trustees.

Remuneration of chairman and vice-chairman to be fixed by Government.

[2] **16.** (1) The chairman and vice-chairman shall respectively receive such remuneration as Government shall from time to time determine.

Fees payable to other trustees.

(2) Every trustee other than the chairman and vice-chairman who shall attend a meeting at which a quorum is present and business is transacted, and which he attends from the beginning to the end thereof, shall be entitled to a fee of—

(*a*) thirty rupees for every ordinary meeting of the Board, provided that if such meeting is adjourned or more than one ordinary meeting is held in any one week, no more than thirty rupees shall be paid to any trustee for his attendance at all such meetings during that one week;

(*b*) thirty rupees for every special meeting of the Board convened under sub-section (2) (*b*) of the next succeeding section;

(*c*) fifteen rupees for every special meeting of a Committee of which such trustee attending is a member, convened under sub-section (5) of the next succeeding section, provided that such special meeting of a Committee is not held upon the same day in continuation of or preparatory to an ordinary or special meeting of the Board for which he is entitled to a fee under either of the preceding clauses.

(3) The aggregate amount of fees payable to any trustee under the last preceding sub-section in respect of meetings held during any month shall not

[1] Sections 15B and 15A were inserted by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 8, Vol. IV of this Code.

[2] This section was substituted by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 9, Vol. IV of this Code.

exceed two hundred rupees, or such sum as may be fixed by any by-law from time to time made in this behalf.

Proceedings of Board.

17. The following provisions shall be observed with respect to the proceedings of the Board (namely) :— Provisions concerning the Board's proceedings.

(1) During any vacancy in the Board the continuing trustees may act as if no vacancy had occurred. Vacancy not to affect Board's proceedings.

(2) The Board shall meet together, and shall from time to time make such arrangements, not inconsistent with this Act, with respect to the place, day, hour, notice, management and adjournment of such meetings, and generally with respect to the transaction of business, as they think fit, subject to the following conditions (namely):— Board to meet together and arrange for transaction of business.

(*a*) that two ordinary meetings at least shall be held in every month; Two ordinary meetings in each month.

(*b*) that the chairman may, whenever he thinks fit, and shall, upon the written request of not less than three trustees, call a special meeting; Special meetings.

(*c*) that no business shall be transacted at any meeting unless at least four trustees are present from the beginning to the end of such meeting; Quorum.

(*d*) that every meeting shall be presided over by the chairman, if he is present at the time appointed for holding the same and, if he is absent, by the vice-chairman or, in his absence, by such one of the trustees present as may be chosen by the meeting; Meeting to be presided over by the chairman.

(*e*) that all questions shall be decided by a majority of votes of the trustees present, the president having a second or casting vote in all cases of equality of votes; Questions to be decided by a majority of votes.

(*f*) that, if a poll be demanded, the names of the trustees voting and the nature of their votes shall be recorded by the president; Votes to be recorded if a poll is demanded.

(*g*) that minutes shall be kept of the names of the trustees present and of the proceedings at each meeting in a book to be provided for this purpose, which shall be signed as soon as practicable, by the president of such meeting, and shall be open to inspection by any trustee during office hours. Minutes of proceedings.

(3) The Board may delegate any of their powers to committees, consisting of such trustees as they think fit; any committee so formed shall conform to any instructions that may from time to time be given to them by the Board, Board may delegate powers to committees.

and the Board may at any time discontinue or alter the constitution of any committee so formed.

Committees' meetings to be presided over by a chairman.

(4) A committee may elect a chairman of their meetings, and, if no such chairman is elected, or, if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting.

Meetings of committees.

(5) Committees may meet and adjourn as they think proper, but the chairman of the Board may, whenever he thinks fit, and shall, upon the written request of not less than two members of a committee, call a special meeting of such committee.

Questions how to be decided at committees' meetings.

(6) Questions at any meeting of a committee shall be decided by a majority of votes of the members present, and, in case of an equal division of votes, the chairman of the meeting shall have a second or casting vote, but no business shall be transacted at any such meeting unless at least two-thirds of the members of the committee are present from the beginning to the end thereof.

Acts of Board, etc., not to be invalidated by informalities.

(7) No act of the Board, or of any committee, or of any person acting as trustee, shall be deemed to be invalid by reason only of some defect in the appointment of such Board, committee or trustee, or on the ground that they, or any of them, were disqualified for the office of trustee.

Competency of the Board to lease, sell and transfer.

[1] **18.** (1) The Board shall be competent, subject to the restrictions contained in sub-section (2), to lease, sell or otherwise transfer any moveable or immoveable property which may, for the purposes of this Act, have become vested in, or been acquired by them, and so far as is not inconsistent with the provisions and purposes of this Act, and subject to the restrictions contained in sub-sections (3) and (4), to enter into and perform all such contracts as they may consider necessary or expedient in order to carry into effect the said provisions and purposes.

Subject in certain cases to sanction of Government.

[1] (2) In the case of every lease of immoveable property for a term exceeding twenty-one years and in the case of every sale or other transfer of any such property, the previous sanction of Government is required.

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[1] These sub-sections and sub-sections (3) to (9) on the two succeeding pages were substituted for the first two paragraphs of section 18 by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 10, Vol. IV of this Code.

The first two paragraphs were as follows:—

"The chairman may, on behalf of the Board, enter into any contract or agreement, whereof the value or amount shall not exceed one thousand rupees, in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf; but every other contract or agreement on behalf of the Board shall be in writing, and shall be signed by the chairman and by two other trustees, and shall be sealed with the common seal of the Board.

No contract or agreement not executed as foresaid shall be binding on the Board."

[1] (3) In the case of every contract which will involve expenditure exceeding three thousand rupees not reported forthwith under section 67 through the Commissioner to Government as required for a pressing emergency, the previous and final approval of Government to an estimate at the time in force, in which provision is included for such expenditure, is required.

Approval of Government to estimate when no pressing emergency and expenditure involved exceeds Rs. 3,000.

[1] (4) In the case of every contract in respect of any new work, the estimated cost of which exceeds one thousand rupees, the sanction of the Board on a plan and estimate submitted to, and considered and approved by, them, is required.

Sanction of Board on plan and estimate for new work costing over Rs. 1,000.

[1] (5) In the case—

Sanction of Board by resolution requisite in certain cases.

(*a*) of a lease for a period exceeding one year, or of a sale or other transfer, or contract for the purchase, of any immoveable property;

(*b*) of every contract which will involve expenditure not covered by a budget grant;

(*c*) of every contract the performance of which cannot be completed within the official year current at the date of the contract;

the sanction of the Board by a resolution passed at a meeting thereof is required.

[1] (6) In the case of a contract for the purchase of moveable property, or for the sale of any moveable property belonging to the Board, if the expenditure which the purchase would involve, or the value of the property to be sold as estimated in the accounts of the Board, exceeds one thousand rupees, the sanction of the Board is required.

Sanction of the Board when required to purchase or sale of moveable property.

[1] (7) In the case of every contract not otherwise provided for in the preceding sub-sections of this section, the sanction of the chairman, or the sanction of the Port Engineer or Manager and Secretary, given in exercise of a power in this behalf conferred by the general or special orders of the Board or by special order of the chairman, is required.

Sanction by chairman and officers empowered.

[1] (8) Every contract entered into by or on behalf of the Board other than a contract to which sub-section (7) applies, shall be in writing, and shall be signed by the chairman and two other trustees, and shall be sealed with the common seal of the Board.

Mode of executing contracts.

Every contract to which sub-section (7) applies shall be executed by the chairman, or by such officer mentioned in sub-section (7) as is empowered to sanction such contract, in such manner and form as, according to the law for

[1] These sub-sections and sub-sections (1) and (2) on the preceding page and (9) on p. 378 were substituted for the first two paragraphs of section 18 by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 10, Vol. IV of this Code.

the time being in force, would bind the chairman or officer if such contract were executed by him on his own behalf.

Invalidity of contracts unless requirements of this section are fulfilled.

[1] (9) No contract shall be binding on the Board in any case referred to in this section unless all such requirements as are specified in sub-sections (2), (3), (4), (5), (6) and (7) in respect of such case are fulfilled, and unless it is executed in accordance with the provisions of sub-section (8) applicable thereto:

Provided that the signatures of the chairman and two other trustees may be engraved, lithographed or impressed by any mechanical process on coupons attached to debentures which the Board is at any time authorized to issue under the [2]Local Authorities Loan Act, 1879, or other law for the time being in force, and the signatures so engraved, lithographed or impressed shall have the same validity as if they were written in the proper handwriting of the chairman and other trustees. XI of 1879.

Board may compound for claims against them.

19. The Board may compound or compromise for or in respect of any claim or demand made against them, for such sum of money, or other compensation, as they shall deem sufficient.

The Chairman and Vice-Chairman.

Duties of chairman, and

20. The chairman shall—

(1) attend every meeting of the Board, unless prevented by sickness or other reasonable cause;

(2) exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration and in matters concerning the accounts and records of the Board; and, subject to the regulations at the time being in force framed by the Board under section 22, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances;

(3) furnish to Government a copy of the minutes of any of the Board's proceedings and any returns or other information which Government may from time to time call for.

of vice-chairman.

The vice-chairman shall exercise such of the powers and perform such of the duties of the chairman as the chairman from time to time deputes to him.

[1] *See* footnote on preceding page.
[2] General Acts, Vol. III, p. 259.

III.—Of the Officers and Servants of the Board.

Strength of Staff.

Schedule of officers and servants and of their pay and allowances to be prepared and sanctioned by the Board.

21. The Board shall from time to time prepare and sanction a schedule of the staff of officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth the amount and nature of the salaries, fees and allowances which the Board sanctions for each such officer or servant.

[1] * * * * * * * * *

Provisos.

Provided—

(1) that artisans, porters and labourers and mukaddams of porters and labourers, and persons temporarily employed in the engineering department, shall not be deemed to be officers or servants within the meaning of this section or of section 22, clauses (1) to (4), both inclusive, or of section 23;

(2) that, if an officer is lent to the Board by Government, the Board shall make such contributions, if any, on account of his pension and leave-allowances as may be required by the rules in this behalf from time to time in force, and shall not, except with the consent of Government, dispense with his further services at any time without giving the Government six months' previous notice;

(3) that every officer and servant, if any, maintained by Government on the [2] [31st March, 1887] at the cost of the provincial revenues for employment in the Karáchi harbour shall, if he is entitled as a Government servant to pension and leave-allowances, be deemed to be lent to the Board on and from the [2][1st April, 1887].

Board to frame regulations—

22. The Board shall from time to time frame regulations—

for regulating leave;

(1) for regulating the grant of leave to the officers and servants of the Board;

for settling absentee allowances;

(2) for authorizing the payment of allowances to the said officers and servants, or to certain of them, whilst absent on leave;

for fixing acting allowances;

(3) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave;

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[1] The two paragraphs following paragraph 1 were repealed by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 11, Vol. IV of this Code.

[2] These words and figures were substituted for the words and figures "day aforesaid" and "date notified by the Governor in Council under section 10", respectively, by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 11, Vol. IV of this Code.

for regulating length of service; (4) for regulating the period of service of all such officers and servants;

for fixing pensions, etc.; (5) for determining whether any of the said officers and servants, and, if so, which of them, shall on retirement receive pensions, gratuities or compassionate allowances [1] * * * * * * * * and the conditions under which such pensions, gratuities or compassionate allowances shall be payable and the amount of the same;

for authorizing contributions to provident fund; (6) for authorizing the payment of contributions at certain prescribed rates and subject to certain prescribed conditions to any provident fund which may be established by the Board for the benefit of their officers and servants or which, with their approval, may be established by their officers and servants themselves;

determining conditions of grant of wound pensions or compassionate allowances. [2] (7) for determining the conditions under which pensions, gratuities or compassionate allowances may be paid to any of such officers and servants injured, or to the surviving relatives of any of such officers and servants killed, in the execution of their duty:

Provided that no regulation framed by the Board under clause (5) [3][or clause (7)] shall have validity unless or until the same has been sanctioned by Government.

Powers of Appointment, etc.

Appointments, etc., by whom to be made. **23.** Subject to the provisions of the said regulations and of the schedule for the time being in force framed by the Board under section 21, the power of appointing, promoting, suspending, dismissing for misconduct, fining, reducing or granting leave to the officers and servants of the Board shall be exercised by the chairman in the case of officers and servants whose monthly salary does not exceed one hundred rupees, and in every other case, by the Board.

An appointment so made by the Board shall not be held to be a contract or agreement within the meaning of section 18.

The power of dispensing with the services of any officer or servant of the Board, otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity or

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[1] The words "and whether compassionate allowances shall be paid to the surviving relatives of any of the said officers and servants who are killed in the execution of their duty, and, if so, to which of them" were repealed by s. 12 (*a*) of the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), Vol. IV of this Code.

[2] Clause 7 was added to section 22 by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 12 (*b*), Vol. IV of this Code.

[3] These words were inserted by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 12 (*c*), Vol. IV of this Code.

compassionate allowance, shall, subject to the aforesaid provisions, be exercised by the Board alone.

Every order of the chairman dismissing for misconduct an officer or servant whose monthly salary exceeds thirty rupees shall be subject to the approval of the Board.

Sanction of Commissioner when necessary.

24. Every order or regulation made by the Board under any of the three last preceding sections shall, so far as the same relates to any officer whose monthly salary is three hundred rupees or more, be subject to the previous sanction of the Commissioner.

IV.—Of the Property and Liabilities of the Board.

General Powers as to Property.

Powers of Board as to property.

25. The Board shall, for the purposes of this Act, have power to acquire and hold moveable and immoveable property whether within or without the limits of the port or city of Karáchi.

[1] * * * * * * * * * * *

Procedure to be observed when the Board are unable to acquire, by agreement, any immoveable property.

26. When the Board are unable to acquire, by agreement, any immoveable property required for the purposes of this Act, Government may, in their discretion, order proceedings to be taken for acquiring the same on behalf of the Board, as if such property were land needed for a public purpose within the meaning of the [2] Land Acquisition Act, 1894.

I of 1894.

The amount of compensation awarded and all other charges incurred in the acquisition of any such property shall be forthwith defrayed by the Board and thereupon the said property shall vest in the Board.

Transfer of Government property to the Board.

27. The property specified in Schedule A shall [3] * * * * * * * vest in the Board:

Provided that—

(1) if any question arises between the Government and the Board as to the boundaries of any portion of such property, Government may define and demarcate such boundaries, and the decision of Government in respect to such boundaries, when approved by the Governor General in Council, shall be conclusive;

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[1] The following clauses were repealed by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 13, Vol. IV of this Code :—

"and shall also have power to lease, sell or otherwise convey any moveable or immoveable property which may have become vested in or been acquired by them":

"Provided that no sale of immoveable property and no lease of any such property for a term exceeding twenty-one years shall be valid, unless such sale or lease shall have been made with the previous sanction of Government."

[2] *See* reprint of the Act with footnotes brought down to 1st August, 1903.

[3] The words and figures "upon and after the date notified by Government under section 10" were repealed by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 14, Vol. IV of this Code.

(2) any portion of the land specified in the said schedule which shall be required by Government for a public purpose may be resumed by Government, with the approval of the Governor General in Council, without claim to compensation on the part of the Board, except for buildings or other permanent structures erected thereon;

(3) the railway now under construction between the Bandar station and the Keamari station may be constructed by Government along the foreshore or on reclaimed land, and any other work which the Governor General in Council may consider necessary in the public interests may be executed by Government in or upon any of the property specified in the said schedule, without claim to compensation on the part of the Board except for building or other permanent structures which it shall be necessary to clear away for the purposes of such railway or work.

Transfer to the Board of the Karáchi Harbour Board's liabilities and claims.

28. The loans specified in Schedule B, which have been contracted by the Karáchi Harbour Board and have not yet been discharged, and all other debts and obligations incurred, all contracts entered into, and all matters and things engaged to be done by, with or for the Karáchi Harbour Board, shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board;

and all sums of money due to the said Karáchi Harbour Board shall be deemed to be due to the Board;

and all suits or other legal proceedings, civil or criminal, instituted, or which might, but for the passing of this Act, have been instituted, by or against the said Karáchi Harbour Board, may be continued or instituted by or against the Board.

Special provisions as to liabilities of the Board to the Municipality.

[1] **28A.** (1) The Board shall pay annually on the 30th day of September to the Municipality of Karáchi, in lieu of any tax imposed under clause (*i*) of section 59 of the [2] Bombay District Municipal Act, 1901, and leviable from the Board by the said Municipality in respect of the property or of some portion of the property vested in the Board which would otherwise be liable to be assessed to the said tax, a sum ascertained in the manner provided in sub-sections (2), (3), (4) and (5). Bom. III of 1901.

(2) The Board shall, within three months from the passing of this Act, furnish the Municipality with a complete list of all lands and buildings vested in or in the charge of the Board, and the Municipality shall thereupon fix the

[1] Section 28A was inserted by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 15, Vol. IV of this Code.
[2] Vol. IV of this Code.

rateable value of those lands and buildings entered therein, in respect of which the said tax would otherwise be primarily leviable from the Board under section 68 of the [1] Bombay District Municipal Act, 1901.

Bom. III of 1901.

The said value shall be estimated by the Municipality with a general regard to the rules of the Municipality for the time being in force under the [1] Bombay District Municipal Act, 1901, concerning the valuation of property assessable to the said tax, at such amount as the Municipality shall deem to be fair and reasonable. The Municipality shall transmit the said valuation to the Board within two months after the receipt of the aforesaid list of property, and shall consider any objections whatsoever which the Board, within one month of the receipt thereof, may make to the said valuation, and the Municipality, if they deem the objections (if any) of the Board valid, shall modify their estimate accordingly.

Bom. III of 1901.

(3) If within seven months of the passing of this Act the Board and the Municipality shall be unable to agree with regard to the estimate or any portion of the estimate of the rateable value of the aforesaid property, the Board shall, within seven days of the expiry of this period, submit to the Commissioner in Sind their objections to the valuation made by the Municipality. And the Commissioner may call on the Board and the Municipality each to appoint a delegate to aid him in making the said valuation, and the Board and the Municipality shall each appoint a delegate accordingly.

The Commissioner shall not be bound by the opinions of the delegates and his decision shall be final.

(4) Every decision as to such rateable value, whether arrived at under sub-section (2) or sub-section (3), shall hold good for five years, but shall, if in the meantime the number or extent of the buildings or lands vesting in or in the charge of the Board materially increases or decreases, be varied proportionally, and shall, in the manner hereinbefore prescribed, so far as the same may be applicable, be revised from time to time for the purpose of such proportional variation, and be altogether revised in the fifth year and every fifth year following.

(5) The sum to be paid annually to the Municipality by the Board in lieu of a tax imposed under clause (*i*) of section 59 of the [1] Bombay District Municipal Act, 1901, shall be nineteen-twentieths of the amount which would be payable by an ordinary owner of buildings or lands in the city, under the rules of the Municipality concerning the levy of such tax, on a

Bom. III of 1901.

[1] Vol. IV of this Code.

rateable value of the same amount as that fixed under sub-section (*2*) or sub-section (*3*).

(6) If the Municipality, in lieu of imposing separately a tax under clause (*i*) of section 59 of the [1] Bombay District Municipal Act, 1901, impose a consolidated tax under proviso (*c*) of the said section, such proportion of the consolidated tax as the Board and the Municipality by agreement determine, or in the event of their being unable, within six months of the imposition of such consolidated tax, to agree, then such proportion thereof as the Commissioner determines in this behalf shall for the purposes of this section be deemed to be a tax imposed under clause (*i*) of section 59 of the [1] Bombay District Municipal Act, 1901, and all the foregoing provisions of this section shall thereupon apply thereto. Bom. III of 1901. Bom. III of 1901.

(7) Notwithstanding anything contained in this section or in the [1] Bombay District Municipal Act, 1901, or in any rules or by-laws of the Municipality thereunder, all the terms of the agreement set forth in Schedule D shall, as between the Board and the Municipality, have the same force and effect as if they were contained in this Act or in the [1] Bombay District Municipal Act, 1901, and all sums which are or may become by virtue of that agreement payable by the Board to the Municipality in respect of water supplied or to be supplied thereunder shall be in lieu of any water-rate which might otherwise be imposed and leviable in respect of such supply : Bom. III of 1901. Bom. III of 1901.

Provided—

(*a*) that the Board and the Municipality may, with the sanction of the Commissioner, from time to time vary or add to the terms of the said agreement, and that every variation or addition so sanctioned shall be published in the *Sind Official Gazette*, and shall thereupon have the same force and effect as if it were contained in the schedule hereto ; and

(*b*) that in case of any difference of opinion arising between the Board and the Municipality with reference to the construction of the said agreement, the question shall be referred to the Commissioner, whose decision thereupon shall be final.

(8) Except as hereinbefore in this section provided, nothing shall affect the liability of the Port Trust property to any tax which may be lawfully imposed within the Municipal district.

[1] Vol. IV of this Code.

V.—Of the Powers and Duties of the Board.

Works.

29. The works to be constructed and carried out by the Board may include the following:— **Works to be constructed.**

(1) wharves, quays, stages, jetties, piers and docks, with all necessary and convenient arches, drains, landing-places, stairs, fences, roads, railways and approaches;

(2) tramways, warehouses, sheds, engines, and other appliances for conveying, receiving and storing goods landed, or to be shipped, or otherwise;

(3) light-houses, light-ships, beacons, pilot-boats, and other appliances necessary for the safe navigation of the port and of the approaches thereto within a distance of three miles from the limits of the port;

[1][and with the sanction of Government as to the funds to be contributed by the Board for the purpose, light-houses beyond the said distance at the mouths of the Indus and at Cape Monze or the maintenance and lighting thereof];

(4) laying down moorings, and the erection of cranes, scales and all means and appliances necessary for berthing, loading and unloading vessels;

(5) reclaiming, excavating, enclosing and raising any part of the foreshore of the port vested in the Board;

(6) the construction, procuring and application of dredges and other machines for cleaning, deepening and improving any portion of the port or foreshore aforesaid;

(7) procuring and employing steam-vessels for towing vessels into, out of or within the port;

(8) the construction of such works, without the limits of the port, as shall be necessary for the protection of works executed by the Board within the port, and all such other works and appliances as may, in the opinion of the Board, be necessary or desirable for carrying out the purposes of this Act;

[2](9) the extinguishing of fires on the property of the Board, and the equipment, maintenance and use of engines for that purpose;

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[1] These words were inserted in clause 3 of section 29 by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902) s. 16 (*1*), Vol. IV of this Code.

[2] Clauses (9), (10), (11) and (12) were inserted by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 16 (*2*), Vol. IV of this Code.

[1](10) the equipment of vessels, steam tugs or other boats and their use as well within the limits of the port as on the high seas beyond those limits, and whether in territorial waters or otherwise for the purpose of towing or rendering assistance to any vessel whether entering or leaving the Port, or bound elsewhere and for the purpose of saving or protecting life or property ;

[1](11) the supply of water to shipping in the port, and the equipment maintenance and use of boats and barges for that purpose ;

[1](12) the extinguishing of fires in the port, and the equipment, maintenance and use of engines for that purpose :

But no new work to be commenced without a plan and estimate if its cost shall exceed Rs. 1,000 ; nor without the sanction of Government to such plan and estimate if the cost shall exceed Rs. 50,000.

Provided always that no new work, the estimated cost of which exceeds one thousand rupees, shall be commenced by the Board [2]* * * * * * * * * until a plan and estimate of such work shall have been submitted to the Board and considered and approved by them ; nor shall any new work, the estimated cost of which exceeds fifty thousand rupees, be commenced until such plan and estimate shall have been submitted to, and approved by, Government.

Free landing-places to be provided.

30. The Board shall provide such number of public landing-places as shall, in the opinion of the Commissioner, be sufficient, from and upon which the public shall be permitted to embark and to land free of charge.

Removal of bathing and landing-places.

31. The Board may occupy or remove or alter any bathing-place or landing-place within the port, and prohibit the public from resorting to or using the same : Provided that the Board shall provide for the use of the public such other bathing-places or landing-places, if any, as the Commissioner may direct.

Landing and Shipping of Goods.

Appliances for shipping, etc., for seagoing vessels.

32. The Board shall, so far as the funds at their disposal will allow, provide and maintain wharves, quays, stages, jetties, piers, warehouses, sheds and appliances for the expeditious and convenient shipment and landing of goods in and from seagoing vessels within the port and for the storing of

[1] Clauses (9), (10), (11) and (12) were inserted by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 16(2), Vol. IV of this Code.

[2] The words "nor shall any contract be entered into by the Board in respect of any such new work" were repealed by s. 16 of the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), Vol. IV of this Code.

such goods, and shall by their servants land and ship all goods from and in any such vessel coming to any such wharf, quay, stage, jetty or pier, except where there is a lawful excuse for refusing to land or ship such goods, or such vessel is, under any enactment for the time being in force, not entitled to have her cargo shipped or discharged:

Provided that—

(1) the Board shall not be bound to land, ship or move any single article or package exceeding ten tons or twenty hundredweight in weight, except at such special charge as may be agreed on in respect of such article or package;

(2) the Board may, by special agreement with the masters of vessels or the owners of goods, permit goods to be landed and shipped by others than the servants of the Board; but every such permission shall be subject to the condition that the means to be employed and the appliances to be used by the said masters or owners for landing or shipping goods shall be subject to the approval of the Board, whose duty it shall be to satisfy themselves that the said means and appliances are at all times such and in such condition as not to endanger the lives or safety of the persons employed.

Seagoing vessels compelled to use wharves, etc.

33. When any wharf, quay, stage, jetty or pier has been made and completed, with sufficient warehouses, sheds and appliances for landing or for shipping goods from and in seagoing vessels, the Board may, with the previous sanction of the Commissioner, by a [1]notification published in three consecutive numbers of the *Sind Official Gazette*, declare that such wharf, quay, stage, jetty or pier is ready for receiving, landing and shipping, or for landing or for shipping, as the case may be, goods from and in seagoing vessels.

From and after such publication, the Board may from time to time, when there is room at such wharf, quay, stage, jetty or pier, order to come alongside of such wharf, quay, stage, jetty or pier, for the purpose of landing and shipping goods, or for landing or for shipping the same, as the case may be, any seagoing vessel within the port which has not commenced to discharge cargo, or which, being about to take in cargo, has not commenced to do so. In making such order the Board shall have regard, as far as possible, to the convenience of such vessel, and of the shippers, in respect of the use of any particular wharf, quay, stage, jetty or pier.

[1] *See* list prefixed to the Bombay Local Rules and Orders, Vol. II, Ed. 1898, pp. cclxx and cclxxi.

If accommodation sufficient, all seagoing vessels compelled to use wharves, etc.

34. When a sufficient number of wharves, quays, stages, jetties, piers, warehouses, sheds and appliances have been provided as aforesaid, the Board may, with the previous sanction of the Commissioner, by an order published in three consecutive numbers of the *Sind Official Gazette*, direct that no goods shall be landed or shipped from or in any seagoing vessel within the port save at such wharves, quays, stages, jetties and piers, and may, in like manner, alter, vary or revoke any such order: Provided that it shall be competent to the Board at any time to exempt any specified vessel from the operation of any order made under this section.

Power to order vessels not to come alongside of, or to be removed from, wharves, etc.

35. [An officer appointed by the Board in this behalf][1] may, in cases of emergency, or for any reason which appears to [1] [him] sufficient, by notice in writing, order the master or owner of any vessel not to bring such vessel alongside of, or to remove such vessel from, any wharf, quay, stage, jetty or pier belonging to the Board, and, if such notice is not obeyed, the Board may charge in respect of such vessel such sum as they think fit, not exceeding [1] [five hundred] rupees for each day of twenty-four hours, or portion of such day, during which such vessel remains at such wharf, quay, stage, jetty or pier:

Provided that, in the case of a vessel ordered to be removed, such charge shall not commence to be made till after the expiry of [1] [twelve hours from the service of such notice as aforesaid] on the master or owner of the vessel.

Power to Commissioner to exempt from obligation to use wharves, etc.; and

36. Notwithstanding anything contained in sections 33 and 34, the Commissioner may, by notification in the *Sind Official Gazette*, from time to time permit certain specified vessels or classes of vessels to discharge or ship cargo, or certain specified cargo or classes of cargo, at such part of the port in such manner, during such period, subject to such payments and on such conditions as he may think fit, and otherwise grant exemption from the provisions of such sections.

The Commissioner may also, by like notification, cancel or modify any such notification.

to require preference to be given to Government vessels.

The Commissioner may also at any time require that any vessel belonging to or in the service of Her Majesty or the Government of India shall be permitted to come alongside of any wharf, quay, stage, jetty or pier belonging to the Board in preference to all other vessels at the time in port: and it shall be incumbent on the Board to give effect to any such requisition.

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[1] These words in section 35 were substituted for the words "the Board," "them," "one hundred," and "thirty-six hours from the service of the Board's notice," respectively, by s. 17 of the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act. 2 of 1902), Vol. IV of this Code.

Discharge of liability on goods landed.

37. Whenever any goods are landed by the Board from any vessel, the Board shall, if so required, give to the master of such vessel a receipt in the form or to the effect set forth in Schedule C, and may in any such receipt include all goods landed from such vessel during one day.

No master or owner of a vessel from which the goods in respect of which such receipt is given may have been landed shall be liable for any loss or damage to such goods which may occur after they have been so landed.

Customs-wharves, etc.

Accommodation to be provided for customs-officers, in wharves, etc., appointed under Sea-Customs Act.

38. When Government appoint, under the provisions of any Act for the levy of sea-customs duties, any wharf, quay, stage, jetty, pier, warehouse or shed provided under this Act for the use of seagoing vessels to be a wharf for the landing or shipping, or a warehouse for the storing of goods within the meaning of such Act, the Board shall set apart, maintain and secure on or in such wharf, quay, stage, jetty, pier, warehouse or shed such portion thereof or place therein, or adjoining thereto, for the use of the officers of customs as the Commissioner approves or appoints in that behalf.

Dues at customs-wharves, etc.

39. Notwithstanding that any wharf, quay, stage, jetty, pier, warehouse or shed or portion thereof has, under the provisions of the last section, been set apart for the use of the officers of customs, all dues, rates, tolls, charges and rents payable under this Act in respect thereof, or for the use thereof, or for the storage of goods therein, shall be paid and be payable to the Board or to such persons as they may appoint to receive the same.

Erection of Wharves, etc., by private persons.

Private wharves, etc., prohibited.

40. Save as hereinafter provided, no person except the Board shall make, erect or fix below high-water mark within the port any wharf, dock, quay, stage, jetty, pier, erection or mooring.

Any matter or thing so made, erected or fixed may be removed by the Board, and the person who has so made, erected or fixed any such matter or thing shall be punished with fine, which may extend to one thousand rupees, and with a further fine which may extend to one hundred rupees for every day during which such matter or thing has been permitted to remain so made, erected or fixed after notice to remove the same has been given to him, and shall also be liable to pay all expenses which may have been incurred by the Board in removing such matter or thing.

Power to permit erection of

41. The Board may, by an order in writing and subject to the conditions contained in the same, permit any person to make, erect or fix below high-

private wharves, etc., within the port subject to conditions.

water mark within the port any wharf, dock, quay, stage, jetty, pier, erection or mooring.

Wharves, etc., beyond port limits.

42. In case any wharf, dock, quay, stage, jetty, pier, erection or mooring is after the date on which this Act comes into force, without the written consent of Government, made, erected or fixed below high-water mark without the limits for the time being of the port, and thereafter the limits of the port are extended so as to include the place in which such wharf, dock, quay, stage, jetty, pier, erection or mooring has been made, erected or fixed, the Board may remove, fill up or destroy such wharf, dock, quay, stage, jetty, pier, erection or mooring without making any compensation therefor.

Scale of tolls and charges to be framed.

43. The Board shall frame and may from time to time alter—

(*a*) a scale [1] of tolls, dues, rates and charges for the landing and shipment of goods at the wharves, quays, stages, jetties, and piers, and for the use of such wharves, quays, stages, jetties and piers, and for the storing and keeping of any goods stored in any premises belonging to the Board, and for the removal of goods and for the use of any mooring;

(*b*) a scale of tolls for the use of the said wharves, quays, moorings, stages, jetties and piers, in case the Board permit the goods to be landed or shipped by others than their own servants; and

(*c*) a scale of charges for any services to be performed by the Board or their servants in respect of any vessel or goods, or for the use of any works or appliances to be provided by the Board.

[2] * * * * * * * * * * * *

Scale of charges for use of dock, etc.

[3] **43A.** The Board may also frame, and from time to time alter, a [1] scale of charges to be levied—

(*a*) for the permission to use, and for the use of, any dock in the possession of the Board and for services which the Board renders to, and for gear, tackle, tools, instruments, utensils, staging or materials supplied by the Board for the purpose of, any vessel using or any person working in, any such dock;

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[1] *See* list prefixed to the Bombay List of Local Rules and Orders, Vol. II, Ed. 1898, pp. cccxxi and cclxxii.

[2] The last two paragraphs of section 43 were repealed by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 18, Vol. IV of this Code.

[3] Sections 43A and 43B were inserted by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 19, Vol. IV of this Code.

(*b*) subject to the provisions of section 29, for the use of water-boats, barges and fire-engines belonging to or maintained by the Board, and for water supplied by the Board in accordance with the provisions of section 29; and

(*c*) for the towing of, and rendering assistance of the nature referred to in clause (10) of section 29, to vessels outside the limits of the port.

Scales framed under last two sections to be submitted to Government for sanction.

[1] **43B.** Every scale framed and every alteration of a scale made by the Board under either of the last two sections preceding shall be submitted to Government for sanction; and, when so sanctioned and published in the *Sind Official Gazette*, shall have the force of law.

Tolls and charges may be remitted in special cases.

44. The Board may, in special cases, with the previous sanction of [2] [the Commissioner], remit the whole or any portion of any toll, due, rate or charge leviable [3][according to any scale for the time being in force] under the last preceding section.

45. [*Tolls on troops*] *Rep. Bom. Act II of 1902.*

Board's lien for tolls and charges.

46. For the amount of all tolls, dues, rates and charges leviable under this Act in respect of any goods, the Board shall have a lien on such goods, and shall be entitled to seize and detain the same until such tolls, dues, rates and charges are fully paid.

Tolls, dues, rates and charges in respect of goods to be landed shall become payable immediately on the landing of the goods, and, in respect of goods to be removed from the premises of the Board or to be shipped for export, shall be payable before the goods are removed or shipped.

The lien for such tolls, dues, rates and charges shall have priority over all other liens and claims, except a lien for freight, primage and general average, where such lien has been preserved in the manner hereinafter provided, and a lien for money payable to Her Majesty or the Secretary of State for India in Council under any law for the time being in force.

Owner's lien for freight.

47. If the master or owner of any vessel, at or before the time of landing from such vessel of any goods at any wharf, quay, stage, jetty or pier gives to the Board notice in writing that such goods are to remain subject to a lien for freight, primage or general average of an amount to be mentioned

[1] Sections 43A and 43B were inserted by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 19, Vol. IV of this Code.

[2] The words "the Commissioner" were substituted for the word "Government" by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 20, Vol. IV of this Code.

[3] These words were inserted in section 44 by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 20, Vol. IV of this Code.

in such notice, such goods shall continue liable, after the landing thereof, to such lien.

Such goods shall be retained either in the warehouses and sheds of the Board, or, with the consent of the Chief Officer of Customs, in a public warehouse, at the risk and expense of the owner of the said goods, until the lien is discharged as hereinafter mentioned.

Discharge of ship-owner's lien for freight.

48. Upon the production to any officer appointed by the Board in that behalf of a document purporting to be a receipt for, or a release from, the amount of such lien, executed by the person by or on whose behalf such notice has been given, the Board may permit such goods to be removed without regard to such lien: Provided they shall have used reasonable care in respect to the authenticity of such document.

Goods may be removed to warehouse.

49. Whenever goods which have been landed have, without any default on the part of the Board, been left for five clear days on or in any wharf or shed belonging to the Board, the Board may cause such goods to be removed either to any warehouse belonging to them, or, with the consent of the Chief Officer of Customs, to a public warehouse; and the removal to and detention in any such warehouse shall be at the risk and expense of the owner of the said goods.

Whenever any goods are so removed, the Board shall give notice of such removal to the consignee of such goods or to his agent, if any, if such consignee's or agent's address be known, by letter sent by post to such address or left thereat; and shall also publish in the *Sind Official Gazette*[1]* * * * * notice of such removal, and shall specify therein the numbers, marks and descriptions of such goods so far as the same appear; and the consignee of such goods, in addition to the expenses of the removal of the same, shall be liable, in case the goods are removed to any warehouse of the Board, to a charge for warehousing for the time during which the goods shall remain in the said warehouse.

If the goods are removed to a public warehouse, the said consignee shall be liable to the charges for warehousing goods in such public warehouse; and the said goods shall remain subject to all liens to which they would have been liable if they had remained in the possession of the Board, and shall be subject to the power of sale hereinafter given.

Recovery of tolls and charges by

50. If the tolls, dues, rates and charges payable to the Board under this Act in respect of any goods which have been landed are not paid, or if the

[1]The words "and in two local papers" were repealed by s. 21 of the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), Vol. IV of this Code.

lien for freight, primage or general average, where such notice as aforesaid has been given, is not discharged, the Board may, and in the latter event, if required by or on behalf of the person claiming such lien for freight, primage or general average, shall, at the expiration of four months from the time when the goods were placed in their custody, sell by public auction the said goods, or so much thereof as may be necessary to satisfy the amounts hereinafter directed to be paid out of the produce of such sale. sale of goods.

Before making such sale at least ten days' notice of the same shall be given by publication thereof in the *Sind Official Gazette* and in two local newspapers.

If the address of the consignee of the goods or of his agent has been stated on the manifest of the cargo, or in any of the documents which have come into the hands of the Board, or is otherwise known, notice shall also be given to the consignee of the goods or to his agent by letter delivered at such address or sent by post; but the title of a *bonâ fide* purchaser of such goods shall not be invalidated by reason of the omission to send such notice, nor shall any such purchaser be bound to enquire whether such notice has been sent:

Provided that, if such goods are of so perishable a nature as, in the opinion of the officer appointed by the Board in that behalf, to render early or immediate sale necessary or advisable, the Board may, within such period, being not less than twenty-four hours after the landing of the goods, as they think fit, sell by public auction the said goods or such portion of them as aforesaid, in which event such notice, if any, shall be given to the consignee of the goods or his agent as the urgency of the case admits of.

51. The proceeds of every such sale shall be applied as follows :— Application of sale-proceeds.

(*a*) in payment of the expenses of the sale;

(*b*) in payment, according to their respective priorities, of the liens and claims excepted in section 46 from the priority of the lien of the Board;

(*c*) in payment of the tolls, dues, rates and charges of landing, removing, storing or warehousing the same, and of all other charges due to the Board in respect thereof.

The surplus, if any, shall be paid to the importer or owner of the goods, or to his agent, on his applying for the same: Provided such application be made within one year from the sale, or reason be shown to the satisfaction of the Board why such application was not so made, and, in case such

application shall not be so made nor reason shown, such surplus shall be held by the Board upon trust for the purposes of this Act.

Power to distrain vessels for the non-payment of rates, etc.

52. If the master of any vessel in respect of which any tolls, dues, rates, charges or penalties shall be payable under this Act, or any by-laws made in pursuance hereof, refuses or neglects to pay the same, or any part thereof, on demand, it shall be lawful for the Board to distrain or arrest of their own authority such vessel, and the tackle, apparel or furniture belonging thereto, or any part thereof, and detain the same until the amount so due shall be paid.

And, in case any part of the said rates or penalties, or of the costs of the distress or arrest or of the keeping of the same, shall remain unpaid for the space of fifteen days next after any such distress or arrest shall have been so made, the Board may cause the vessel, or other thing so distrained or arrested, to be sold, and with the proceeds of such sale may satisfy such tolls, dues, rates, charges or penalties and costs of sale remaining unpaid, rendering the surplus, if any, to the master of such vessel on demand.

Port-clearance not to be granted till rates, etc., paid.

53. If the Board shall give to the officer of Government, whose duty it is to grant the port-clearance of any vessel, a notice stating that an amount therein specified is due in respect of tolls, dues, rates, charges or penalties chargeable under this Act, or any by-laws or orders made in pursuance hereof, against such vessel or the owner or master of such vessel, in respect thereof, such officer shall not grant such port-clearance until the amount so chargeable shall have been paid.

Alternative remedy by suit.

[1] **53A.** Notwithstanding anything contained in the eight sections last preceding and in section 77, the Board may recover by suit any tolls, dues, rents, rates, charges, damages, expenses, costs, or in case of sale the balance thereof, when the proceeds of sale are insufficient, or any penalties or fines payable to or recoverable by the Board under this Act or under any by-laws made in pursuance thereof.

Surplus of port-dues to be paid to Board.

54. The surplus, if any, of the moneys credited under section 36 of the [2]Indian Ports Act, 1889, to the account of the Port Fund of Karáchi, after defraying therefrom all expenses legally chargeable to the said account, shall be paid to the Board. X of 1889.

Control of Pilots.

Trustees to be vested with the

55. The Board shall have the right and privilege of maintaining pilots for the navigation of vessels at the port, and shall be bound to provide a

[1] Section 53A was inserted by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 22, Vol. IV of this Code.

[2] *See* the reprint of the Act, as modified up to 1st April, 1901.

sufficient number of pilots for that purpose, and all fees for pilotage shall be paid to the Board: Provided that no person shall be appointed to be a pilot by the Board who is not for the time being authorized by Government, under the provisions of the [1]Indian Ports Act, 1889, to pilot vessels. right and privilege of maintaining pilots. X of 1889.

The Board may also, from time to time, make such [2]by-laws and regulations as they shall think fit—

(*a*) for fixing and regulating the wages and allowances for pilotage to be received by pilots, and

(*b*) for regulating the behaviour and conduct of pilots [3][whether maintained by the Board or not];

and shall enforce the observance of such by-laws and regulations by the imposition of pecuniary penalties not exceeding two hundred rupees for each offence, or by suspension, or deprivation of appointment, or otherwise as to them may appear expedient: Provided that such by-laws shall first have been approved by Government, and published in the manner directed by section 57.

By-laws.

56. The Board may from time to time make [2]by-laws, consistent with this Act and with the [1]Indian Ports Act, 1889— Trustees empowered to make by-laws. X of 1889.

(*a*) for regulating, declaring and defining the wharves, quays, stages, jetties and piers on and from which goods shall be landed from and shipped in vessels within the port;

(*b*) for the safe and convenient use of such wharves, quays, stages, jetties, piers and of landing places, tramways, warehouses, sheds and other works in and adjoining the same;

(*c*) for regulating the reception and removal of goods within and from the premises of the Board, and for declaring the procedure to be followed in taking charge of goods which may have been damaged before landing or may be alleged to be so damaged;

(*d*) for settling the mode of payment of tolls, charges, dues and rates levied under this Act;

(*e*) for providing water for ships and for licensing and regulating water-boats within the port;

(*f*) for the removal of wrecks from the port and keeping clean the port,

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[1] *See* the reprint of the Act, as modified up to 1st April, 1901.

[2] *See* list prefixed to the Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. cclxxii.

[3] These words were inserted by s. 23 of the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), Vol. IV of this Code.

the foreshore and the works of the Board, and for preventing filth or rubbish being thrown therein or thereon;

(*g*) for the guidance of persons employed by them under this Act, and generally for carrying out the purposes of this Act.

The Board may also from time to time alter or revoke any by-laws so made by them.

Approval and publication of by-laws.

57. No by-law, or alteration or revocation of a by-law, shall have effect until the same shall have been approved by Government, and such approval shall have been published in the *Bombay Government Gazette* and in the *Sind Official Gazette*; and no by-law or alteration or revocation of a by-law shall be approved by Government until a draft of the same and a notice specifying a date at or after which the draft will be submitted to Government shall have been published in the *Sind Official Gazette* and, in such other manner as Government from time to time prescribe, nor unless the said draft shall have been submitted for their approval through the Commissioner.

Cancelment by Government.

It shall be lawful for Government at any time, by notification in the *Bombay Government Gazette* and in the *Sind Official Gazette*, to cancel any by-law or regulation made and published under the provisions of this and of the two last preceding sections.

Penalties for infringement of by-laws.

58. The Board may, in the by-laws made under section 56, prescribe such penalties as they shall deem fit for the infringement of the same: Provided that no penalty for any one infringement of a by-law shall exceed one hundred rupees, nor, in case of a continuing infringement, shall any penalty exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the Board to the person guilty of such infringement.

By-laws and scales of rates and charges to be exhibited.

59. The Board shall cause the said by-laws, and every scale of tolls, dues, rates and charges leviable by the Board, to be printed in the English, Gujaráti and Sindhi languages, and to be kept hung up in some conspicuous place at each of the several wharves, quays, stages, jetties, piers, warehouses and sheds belonging to the Board.

VI.—Of Revenue and Expenditure.

Management of Funds.

Moneys where to be kept.

60. All moneys raised by or paid to the Board under this Act shall be kept in the bank which is at the time appointed to conduct the business of Her Majesty's Treasury at Karáchi.

No disbursement of such moneys or any part thereof shall be made, except upon a cheque signed by the chairman or vice-chairman and one other trustee. How the funds are to be drawn against.

Payment of any sum in excess of five hundred rupees, if it relate to the Port Engineer's department, or of one hundred rupees if it relate to any other department, shall be made by the Board by means of a cheque signed as aforesaid and not in any other way.

Payments of sums not exceeding five hundred rupees each may be made on behalf of the Board by the Port Engineer on account of any charge in his department, in cash, cheques for sums not in excess of five thousand rupees each, signed as aforesaid, being drawn from time to time in favour of the Port Engineer to cover such payments.

In every department other than that of the Port Engineer, sums not exceeding one hundred rupees each may be paid, by such officer as the Board appoints for this purpose, in cash, cheques for sums not in excess of five hundred rupees each, signed as aforesaid, being drawn from time to time in favour of such officer, to cover such payments.

61. The moneys belonging to the Board shall be held by them in trust, and, except as is hereinafter provided, shall be applied by them in payment of the following charges (namely) :— Moneys on what purposes to be expended.

(1) the salaries, fees, allowances, pensions, gratuities, compassionate allowances or other moneys due to the trustees and to the officers and servants appointed under this Act or lent to the Board by Government, and the contributions, if any, payable to Government on account of the pension and leave-allowances of any officer lent to the Board by Government, and the contributions, if any, duly authorized to be made to any provident fund established by the officers and servants appointed under this Act;

(2) the cost of repairs and maintenance of the property vested in the Board, and all charges upon the same and all working expenses;

[1](3) such sums as Government may from time to time require the Board to contribute on account of expenses in connection with the harbour-police and police employed in guarding the docks, warehouses and other property of the Board, and on account of medical services

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[1] This clause was substituted by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 24 (*1*), Vol. IV of this Code.

The original clause was as follows :—

"Such sum as Government may from time to time require for the establishment and maintenance of police for the protection of the port and of the approaches thereto."

supplied in the port, in lieu of or in addition to any expenditure which Government may direct to be made from the funds or hospital port-dues, the control or application of which is by sections 36 and 50 of the [1] Indian Ports Act, 1889, vested in Government; X of 1889.

(4) the interest and instalments of capital due in respect of any loan that may have been raised by the Board or for which it is liable;

(5) any charges for which the Board may be liable under section 79 or section 80;

(6) the cost, or such portion of the cost, of any new work, plant, vessel or appliance which the Board may determine to charge to revenue;

[2](6) (*a*) the payment of pensions, gratuities and compassionate allowances granted by the Board to officers and servants of the Board injured, or to the surviving relatives of such officers and servants killed, in the execution of their duty;

(7) any other charge which may be specially sanctioned by [3] [the Commissioner] on the application of the Board, or for which the Board may be legally liable.

Annual Estimates.

Chairman to submit annual estimate of income and expenditure to Board.

62. The chairman shall, at a special meeting to be held in the month of January in each year, lay before the Board an estimate of the income and of the expenditure of the Board for the year commencing on the first day of April then next ensuing, in such detail and form as the Board shall from time to time direct.

Such estimate shall be completed and printed, and a copy thereof sent by post, or otherwise, to each trustee, at least ten clear days prior to the meeting before which the estimate is to be laid.

Board to revise and sanction the estimate.

63. The Board shall consider the estimate so submitted to them, and shall sanction the same either unaltered or subject to such alterations as they shall think fit.

Estimate to be submitted to Government.

64. The estimate, as sanctioned by the Board, shall be submitted, through the Commissioner, to the Government, which may, if it thinks fit, at any time within one month after receipt of the same, disallow such estimate, or any portion thereof, and return the same for amendment. The Board shall,

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[1] *See* the reprint of the Act as modified up to 1st April, 1901.

[2] Clause 6 (*a*) was inserted in section 61 by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 24 (*2*), Vol. IV of this Code.

[3] The words "the Commissioner" were substituted for the word "Government" by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 24 (*3*), Vol. IV of this Code.

if the estimate is so returned by Government, forthwith proceed to amend the same, and shall resubmit the estimate so amended, through the Commissioner, to the Government.

List of works to accompany estimate.

65. Together with the said estimate, the Board shall submit, through the Commissioner, to the Government, a list of the works which the Board propose to execute during the year to which the estimate relates, showing the order in which the said works are to be executed and the date within which each of them will probably be completed or, in the case of any work which will not be completed within the year, the progress intended to be made therewith during the said year.

Supplementary estimates may be made when necessary.

66. The Board may, at any time during the year for which any such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them. Every such supplementary estimate shall be considered and sanctioned by the Board, and submitted to the Government in the same manner as if it were an original annual estimate.

Circumstances under which any sum exceeding Rs. 3,000 not included in an estimate may be expended.

67. * * * * * * *[1].

[2][If any sum exceeding three thousand rupees in amount, not being included in any estimate at the time being in force which has been finally approved by Government, is] expended on a pressing emergency, the circumstances shall be forthwith reported by the chairman, through the Commissioner, to Government, together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure.

Audit of Accounts.

Accounts to be audited and examined.

68. The accounts of the receipts and expenditure of the Board shall, twice in every year, be laid before Government, and shall be audited and examined in such manner and by such auditor or auditors as shall, from time to time, be appointed by Government.

Auditors to have power to call for books, etc.

For the purposes of such audit and examination, the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers and all other documents and papers which they may deem necessary, and may require any person holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers to appear

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[1] The first paragraph of section 67 was repealed by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 25, Vol. IV of this Code.

The first paragraph was as follows:—

"Save in cases of pressing emergency, no sum exceeding."

[2] These words were substituted for the words "If any sum exceeding three thousand rupees in amount is so" by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 5, Vol IV of this Code.

before them at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same.

Their remuneration to be fixed by Government. Their report to be published.

The auditors shall be paid by the Board such remuneration as Government shall determine; and, within fourteen days after the audit and examination of the accounts for any half-year shall have been completed, the auditors shall forward a report upon the accounts for such half-year to the Board, who shall cause the same to be published, together with an abstract of the accounts, in the *Bombay Government Gazette* and in the *Sind Official Gazette*.

Disposal of Balances.

Balances may be invested by the Board in public securities.

69. The Board may invest any balance remaining on the thirty-first day of March of each year in public securities, and may from time to time sell the said securities, and either re-invest the proceeds in other such securities or credit the same to the general funds of the Board.

Amounts which may be so invested to be limited by Government.

But the money so invested by the Board shall not exceed such amount annually, or in the aggregate, as shall from time to time be prescribed by Government.

[1] In this section the words "public securities" mean:

(*a*) promissory notes, debentures, stock or other securities of the Government of India;

(*b*) debentures or other securities for money issued by, or on behalf of,—

(i) any Municipal body or any Port Trust under the authority of any Act of a Legislature established in British India or the Karáchi Harbour Board or by the Board;

(ii) the City of Bombay Improvement Trust under the authority of the [2] City of Bombay Improvement Act, 1898. Bom. IV of 1898.

Investment of balances in debentures issued by the Board.

[3] **69A.** (1) In respect of any balance which the Board are empowered to invest in public securities under the last preceding section, it shall be lawful for the Board to reserve and set apart for the purposes of any such investment any debentures to be issued on account of any loan for which the sanction of the Governor in Council shall have been obtained, provided that the

[1] This paragraph was substituted for the original paragraph by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 26, Vol. IV of this Code.

The original paragraph was as follows:—

"In this section 'public securities' means securities of the Government of India, Karáchi Municipal debentures and debentures and other securities issued by the Karáchi Harbour Board or by the Board."

[2] Vol. IV of this Code.

[3] Sections 69A and 69B were inserted by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 27, Vol. IV of this Code.

intention to so reserve and set apart such debentures shall have been notified as a condition of the issue of the loan.

(2) The issue of any such debentures direct to and in the name of "The Trustees of the Port of Karáchi" shall not operate to extinguish or cancel such debentures, but every debenture so issued shall be valid in all respects as if issued to and in the name of any other person.

Purchase, etc., by the Board of debentures issued by the Board not to operate to extinguish such debentures.

[1] **69B.** The purchase by, or the transfer, assignment or endorsement to, the Board of any debenture issued by the Board shall not operate to extinguish or cancel any such debenture, but the same shall be valid and negotiable in the same manner and to the same extent as if held by, or transferred, assigned or endorsed to any other person.

Validation of debentures heretofore issued, etc., in the name of the Board.

[1] **69C.** All the several debentures of the Board heretofore issued, transferred, assigned or endorsed in the name of the Board, as specified in Schedule E, and all debentures heretofore issued by way of renewal, consolidation, or sub-division of any of the said debentures shall be deemed to be and to have always been valid and negotiable in all respects and in the same manner as if the same had been issued against moneys borrowed from the Secretary of State or any other person.

VII.—Penalties.

Penalty for being interested in contracts with Board.

70. Any person who, being a trustee, or an officer or servant of the Board shall acquire, directly or indirectly, any share or interest in any contract or employment with, by, or on behalf of, the Board, shall be deemed to have committed the offence made punishable by section 168 of the [2] Indian Penal Code.

XLV of 1860.

[3] Provided that nothing in this section shall apply to any person by reason only of his having any such share or interest as is described in clauses (*a*) to (*f*) of sub-section 2 of section 15.

XLV of 1860.

Penalty for obtaining illegal gratification.

71. Any person employed under this Act, not being a public servant within the meaning of section 21 of the [2] Indian Penal Code, who shall accept or obtain, or agree to accept or attempt to obtain from any person, for himself or for any other person, any gratification whatever other than legal remuneration, as a reward for doing, or forbearing to do, any official

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[1] Sections 69B and 69C were inserted by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 27, Vol. IV of this Code.

[2] *See* the reprint of the Code as modified up to 1st April, 1903.

[3] This proviso was substituted by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 28, Vol. IV of this Code.

act, or for showing, or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering, or attempting to render, any service or dis-service to any person with the Board or with any public servant as such, or with the Government, shall be liable to the same punishment as is provided by the [1] Indian Penal Code in the case of the like offence committed by a public servant. XLV of 1860.

Penalty for infringement of section 33, 34, 36 or 41.

72. Whoever infringes any order issued under section 33 or 34 or any condition prescribed under section 36 or 41 shall be punished with fine which may extend to one hundred rupees; and, if the infringement be continuing, with a further fine which may extend to one hundred rupees for every day such order or condition is infringed.

Penalty for refusing or neglecting to appear before an auditor of accounts, etc.

73. Any person who shall refuse or neglect to appear before any auditor of accounts, or to produce any books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign any declaration when duly required so to do by any auditor of accounts under section 68, shall be punished for every such neglect or refusal with fine which may extend to one hundred rupees.

Penalty for understating quantity or weight of goods, etc.

74. If it be found, when goods are imported at, or exported from, any wharf, quay, stage, jetty or pier in the possession of the Board, that the [2][description], weight or quantity of such goods, or the tonnage of any vessel carrying such goods, has been, in the opinion of the Board, intentionally [2][misstated or] understated in any document presented to any officer of the Board for the purpose of enabling him to determine the tolls, dues, rates or charges payable in respect of the said goods or vessel, the consignee, in the case of goods imported, and the consignor in the case of goods exported, shall be liable to pay to the Board such sum not exceeding twice the proper tolls, dues, rates or charges on the [2][description], weight or quantity of goods or amount of tonnage so [2][misstated or] understated as may be determined by the Board; and the said sum shall, on the application of the Board, be recoverable under the warrant of a Magistrate as if it were a fine inflicted by such Magistrate.

Penalty for evading rates, etc.

75. Any person who removes, or attempts to remove, or abets, within the meaning of the [1] Indian Penal Code the removal of any goods, vessel, animal or vehicle with the intention of evading payment of the tolls, dues, XLV of 1860.

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[1] *See* the reprint as modified up to 1st April, 1903.
[2] These words were inserted in s. 74 by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 29, Vol. IV of this Code.

rates or charges lawfully payable in respect thereof to the Board shall be punished with fine which may extend to fifty rupees.

Compensation for damage to property of Board.

76. In case any damage or mischief is done to any wharf, dock, quay, jetty, stage, pier or work constructed or acquired by the Board under this Act by any vessel, through the negligence of the master thereof or of any of the mariners or persons employed therein, not being in the service of the Board, any Magistrate of the first class having jurisdiction at Karáchi may, on the application of the Board, and on declaration by them that payment for such damage or mischief has been refused or has not been made on demand, issue a summons to the master or owner of such vessel, requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief.

If, at the time appointed in the summons and whether the person summoned appears or not, it is proved that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees, the Magistrate may issue his warrant of distress, under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress, and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the Board out of the proceeds of the distress:

Provided that, if, at the time of the damage or mischief, the vessel was under the orders of a duly authorized officer belonging to the pilot service [1] [maintained by the Board under section 55] or to the Harbour Master's or Port Officer's department, [1] [and if such damage or mischief is in any way attributable to the order, act or improper omission of such officer], the case shall not be cognizable by the Magistrate under this section.

Cognizance of offences against Act.

77. Except, as is otherwise provided in sections 74 and 76, all offences against this Act or against any by-law made under section 56 shall be cognizable by a Magistrate.

All fines and damages recovered from any offender or by any distress under section 76 shall be paid to the Board.

Prosecutions.

78. Prosecution under this Act may be instituted by the Board or by any person authorized by them in this behalf, and not otherwise.

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[1] These words were inserted in the proviso to section 76 by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 30, Vol. IV of this Code.

VIII.—Control.

Government may order survey.

79. Government may at any time order a survey and examination of any work of the Board under this Act, or of the site thereof, and the cost of such survey or examination shall be borne and paid by the Board.

Government may carry out neglected works.

80. If the Board allow any work acquired or constructed by them under this Act to fall into disrepair, or do not complete any work commenced by them or duly estimated for and sanctioned, and do not, after notice given by Government in writing, proceed effectually to repair or complete such work to the satisfaction of Government, Government may cause such work to be restored, completed or constructed, and the cost thereof shall be borne and paid by the Board.

In default, Government may require Board to increase the rates

81. If it shall at any time appear to Government that sufficient provision is not being made by the Board to meet their liabilities, Government may require the Board, by an order in writing, to increase, subject to its sanction and to the provisions of section 43, to such extent and for such period as shall appear necessary, the tolls, dues, rates and charges or any of them for the time being in force under the said section.

and on Board's failing to do so, may itself increase them.

If, within fifteen days after receipt of such order, the Board do not comply with the same, Government may, by notification in the *Bombay Government Gazette* and in the *Sind Official Gazette*, increase the said tolls, dues, rates, charges, or any of them, and such notification shall have the same force as if a new scale to the same effect had been duly framed, sanctioned and published under section 43.

Government may revoke powers of Board.

82. If at any time the Government is satisfied that the purposes intended to be accomplished under this Act have not been and are not likely to be properly accomplished by the Board, the Government may, by notification in the *Bombay Government Gazette* and in the *Sind Official Gazette*, give notice that, unless within six months the Board take measures to the satisfaction of Government for properly accomplishing such purposes, the powers by this Act conferred on the Board will at the end of such period, be withdrawn and revoked.

On the expiration of the period aforesaid, Government may, if no such measures to its satisfaction have been taken by the Board, with the approval of the Governor General in Council, declare such powers to be withdrawn or revoked, and thereupon such powers shall be withdrawn and revoked accordingly, and all the powers, rights and authorities and all the property vested by this Act in the Board shall thereupon vest in Government.

IX.—Miscellaneous.

Saving of previous port regulations.

83. All acts done and proceedings taken by the Karáchi Harbour Board before this Act comes into force, and all orders, rules and regulations relating to the port and to wharves, quays, stages, jetties, piers and landing-places within the port made and issued before this Act comes into force, shall, whenever such acts, proceedings, orders, rules and regulations would have been lawful if this Act had been in force, be deemed to have been respectively done, taken, made and issued under the provisions of this Act.

Recovery of dues as fines under Code of Criminal Procedure.

84. All fees and sums due on account of property for the time being vested in the Board, and all arrears of tolls, charges, rates and dues imposed under this Act, may be recovered, in addition to the other modes hereinbefore provided, upon a summary proceeding before a Magistrate in the manner provided in the [1]Code of Criminal Procedure, 1882, for the recovery of fines.

X of 1882.

Trustees not personally liable.

85. No trustee shall be personally liable for any contract made or expense incurred by or on behalf of the Board; but the funds from time to time in the hands of the Board shall be liable for and chargeable with all contracts made in manner provided in this Act.

Trustees liable for breach of trust.

86. Every trustee shall be liable for any misapplication of money entrusted to the Board to which he has been a party, or which happens through or is facilitated by, the neglect of his duty.

Limitation of suits, etc.

87. No suit shall be commenced against any person for anything done, or purporting to have been done, in pursuance of this Act, without giving to such person one month's previous notice in writing of the intended suit and of the cause thereof, nor after six months from the accrual of the cause of such suit;

and, in the cause of a suit for damages, if tender of sufficient amends shall have been made before the suit was brought, the plaintiff shall not recover more than the amount so tendered and shall pay all costs incurred by the defendant after such tender.

Board not responsible for certain acts of their officers and servants.

88. The Board shall not be responsible for any misfeasance, malfeasance or nonfeasance of any officer or servant appointed under this Act;

nor if they should be appointed by Government under the [2] Indian Ports Act, 1889, conservators of the Port, for any misfeasance, malfeasance or nonfeasance of any Deputy Conservator, Port Officer or Harbour Master, or of any assistant or deputy of any such officer or of any person acting under

X of 1889.

[1] *See* now the Code of Criminal Procedure, 1898 (Act V of 1898), as modified up to 1st April, 1903.

[2] *See* the reprint of the Act as modified up to 1st April, 1901.

the authority or direction of or in subordination to any such officer, assistant or deputy;

nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Board which may be used by such vessel :

Provided that nothing in this section shall protect the Board from a suit in respect of damage to, or loss of, goods landed or shipped by them or retained in their custody.

SCHEDULE A.

(*See Section 27.*)

PROPERTY VESTED IN THE BOARD.

I.—All the right, title and interest of the Secretary of State for India in Council in the following lands, buildings, workshops, piers, break-waters, groynes, embankments, bridge, light-house, signal-stations, jetty, quay, graving-dock and railway-lines, together with all the fittings and other appurtenances thereof (namely) :—

Consecutive number of plots.	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area.	
				Acres.	Square yards.
I	Land at Manora occupied by Harbour Works' office, workshop, etc., together with the following buildings standing thereon (namely) :—	Port Engineer, Karáchi.	On the north by plot No. III and the British India Steam Navigation Company's coal-shed and quarantine buildings. On the south by Persian Gulf telegraph ground and buildings. On the east by harbour. On the west by back-water and Mangrove swamp.	24	4,547
	Bungalows, with out-houses (supervisor's)	Do. . .	Kutcha pucka.		
	Harbour Works' office and peons' quarters.	Do. . . .	Do.		

(*Schedule A.*)

SCHEDULE A—*continued.*

Consecutive number of plots.	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area.	
				Acres.	Square yards.
I—*contd.*	Bungalow, with out-houses (superintendent of machinery's).	Port Engineer, Karáchi.	Pucka.		
	Do. do. (clerks' and artificers').	Do. . .	Kutcha pucka.		
	Bungalow, with out-houses (supervisor and clerks')	Do. . .	Do.		
	Do. do. (accountants').	.....	Do.		
	Do. do. (cashier and draftsmen's).	Port Engineer, Karáchi.	Do.		
	Do. do. (overseers').	Do. . .	Do.		
	Workshop, chimney, smiths, and carpenters' sheds and engine-house.	Do. . .	Includes workshop, engine, machinery and fittings, two pucka and remainder kutcha.		
	Store-room and office.	Do. . .	Pucka.		
	Four lines for khalasis and maistry and boat-house.	Do. . .	Kutcha pucka.		
	Four store-godowns .	Do. . .	3 kutcha and 1 pucka.		
	Chauki for Harbour Works Police.	Do. . .	Pucka.		
	Quarters for enginemen.	Do. . .	Kutcha pucka.		
	Firewood compound.	Do. . .	Pucka.		
	Line for Harbour Works Police.	Do. . .	Do.		
	Bungalow, with out-houses (dredge engineer's).	.....	Kutcha pucka.		

(*Schedule A.*)

SCHEDULE A—*continued.*

Consecutive number of plots.	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area.	
				Acres.	Square yards.
I—*contd.*	Bungalow with out-houses (dredge engineer's).	Port Engineer, Karáchi.	Kutcha pucka.		
	(store-keeper's). Do. do. (time-keeper's).	Do. . .	Do.		
	Do. do. (supervisor's).	Do. . .	Pucka.		
	Tidal-instrument house.	Do. . .	Wood-work.		
II	Land occupied by Harbour Works' work-people's lines, together with the following buildings standing thereon, (namely) :—	Do. . .	On the north by plot No. I.	7	806
			On the south by native dealers' and contractors' lines.		
			On the east by open space and Persian Gulf telegraph premises.		
			On the west by No. 2 Battery.		
	Five lines for workmen.	Port Engineer, Karáchi.	Kutcha.		
	Five lines for carpenters and labourers.	Do. . .	Kutcha pucka.		
	Line for sweepers	Do. . .	Do.		
III	Land occupied by Harbour Works (Khalási lines).	Do. . .	On the north by British India Steam Navigation Company's coal-shed. On the south by plot No. 1. On the east by harbour. On the west by backwater and Mangrove swamp.	...	3,033

(*Schedule A.*)

SCHEDULE A—*continued.*

Consecutive number of plots.	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area.	
				Acres.	Square yards.
IV	Land occupied by Harbour Works' quarry and reclaimed ground along shore between deep-water point and the shore end of the break-water, together with the following buildings standing thereon (namely):—	Port Engineer, Karáchi.	On the north by harbour and Port Department's ground. On the south by Manora break-water. On the east by harbour. On the west by plots Nos. V, VI and VII.	17	4,038
	Office and store-room of No. 1 Division with charging room.	Do. . .	Pucka.		
	Line for workmen .	Do. . .	Kutcha pucka.		
	Do. Pointsmen .	Do. . .	Do.		
	Bungalow, with out-houses (dredge store and time-keeper's).	Do. . .	Do.		
	Powder Magazine .	Do . .	Pucka.		
V	Former site for Harbour Works, temporary jail, and new quarry.	Do. . .	On the north by plot No. 6. On the south by Mr. D. McIver's plot. On the east by plots Nos. IV and VII, and St. Paul's Church. On the west by the sea.	1	1,590
VI	Plot of ground, with Harbour Works' wells.	Do. . .	On the north by Captain Bishop's bungalow (formerly Lieutenant A. W. Stiffe's). On the south by plot No. V. On the east by plot No. IV. On the west by open space and the sea.	...	1,069

(*Schedule A.*)

SCHEDULE A—*continued.*

Consecutive number of plots.	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area.	
				Acres.	Square yards.
VII	Plot of ground, with Harbour Works' bungalow, together with the following buildings standing thereon (namely) :—	Port Engineer, Karáchi.	On the north by St. Paul's Church. On the south by open space and Hindu temple. On the east by plot No. IV. On the west by plot No. V.	...	3,499
	Harbour Works' bungalow and out-houses (Port Engineer's).	Do. . .	.....		
VIII	Land occupied by Port Department, together with the following buildings standing thereon (namely):—	Port Officer .	On the north by the Persian Gulf telegraph premises. On the south by plot No. IV and open space. On the east by harbour. On the west by cemetery.	19	856
	Bungalow, with out-houses (dredge foreman's).	Port Engineer, Karáchi.	Kutcha pucka.		
	Coal-shed (formerly boat-shed).	Port Officer .	Kutcha.		
	Godown at Manora .	Do. . .	Pucka.		
	Do. do. .	Do. . .	Do.		
	Boat-shed (formerly coal-shed).	Do. . .	Do.		
	Four lines for lascars and sweepers.	Do. . .	Do.		
	Water-reservoirs, with service tanks for Port Department.	Do. . .	Do.		
	Firewood compound, Port Department.	Do. . .	Do.		
	European school with latrines.	Do. . .	Do.		
	School mistress' quarters and out-houses.	Do. . .	Do.		
	Reading-room . .	Do. . .	Kutcha pucka.		

(*Schedule A.*)

SCHEDULE A—*continued.*

Consecutive number of plots.	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area.	
				Acres	Square yards.
IX	Land occupied by fort light-house, signal station, etc., together with the following buildings standing thereon (namely) :—	Port Officer .	On the north by plots Nos. X and XI. On the south by Manora break-water. On the east by harbour. On the west by the sea.	3	2,967
	Light-house and light lascars' quarters and bastion godown.	Do. . .	Pucka.		
	Fort and Port Officer's quarters and out-houses.	Do. . .	Kutcha pucka.		
	Peons' quarters at fort.	Do. . .	Do.		
X	Land occupied by out-houses near fort.	Do. . .	On the north by plot No. IV. On the south by plot No. IX. On the east by plot No. IV. On the west by plot No. XI.	...	4,501
XI	Land occupied by bungalow and out-houses, together with the following buildings standing thereon (namely) :—	Do. . .	On the north by open space and plot No. IV. On the south by plot No. IX. On the east by plot No. X. On the west by plot No. X and open space and the sea.	...	4,046
	Bungalow with out-houses and part of Master Attendant's quarters.	Do. . .	Kutcha.		

(*Schedule A.*)

SCHEDULE A—*continued.*

Consecutive number of plots.	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area.	
				Acres.	Square yards.
XII	Land to the west of Napier Mole at its southern end, together with the following building standing thereon (namely) :—	Port Engineer, Karáchi.	On the north by new channel. On the south by plot No. XIV. On the east by China Creek back-waters. On the west by plot No. XIII.	2	941
	Workmen's quarters, late new channel office.	Do. . . .	Pucka.		
XIII	Land to the west of Napier Mole between Plot No. XII and the Commissariat premises, together with the following building standing thereon (namely) :—	Do. . .	On the north by new channel. On the south by plot No. XIV. On the east by plot No. XII. On the west by Commissariat yard.	4	1,408
	Office on ground occupied by Messrs. J. Cosser & Co.	Do. . .	Kutcha pucka.		
XIV	Land to the east of Napier Mole and former railway embankment.	Do. . .	On the north by plots Nos. XII and XIII. On the south by Andrew Road. On the east by China Creek back-waters. On the west by Customs-pier.	25	2,773
XV	Land to the east of Keamari Groyne.	Do. . .	On the north by North-Western Railway's Keamari station ground. On the south by sea. On the east by China Creek. On the west by Keamari Groyne and harbour.	61	3,028

(*Schedule A.*)

SCHEDULE A—*continued.*

Consecutive number of plots.	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area.	
				Acres.	Square yards.
XVI	Merewether Pier shore Plots A, B, C, D, together with the following buildings standing thereon (namely):—	Port Officer .	On the north by plot No. XVII. On the south by railway sheds and pier. On the east by railway ground. On the west by Merewether Pier and harbour.	2	1,940
	Engine and boiler-house, chimney and accumulator tower.	Do. .	Pucka.		
	Office for Pier Master.	Do. .	Do.		
	Goods-shed . .	Do. .	Do.		
XVII	Land from Merewether Pier to Customs-pier, together with the following building standing thereon (namely):—	Do. .	On the north by Commissariat yard. On the south by plot No. XVI. On the east by plots Nos. XVIII and XIV. On the west by harbour.	1	3,710
	Wooden office near Customs-pier.	Do. .	Wood work.		
XVIII	Land for Merewether Pier establishment on which the following buildings stand (namely):—	Do. .	On the north by plot No. XIV. On the south by Andrew Road. On the east by open space. On the west by plot No. XVII.	1	3,130
	Pier Master's quarters and out-houses.	...	Pucka.		
	Quarters for Native establishment under Port Officer and Port Engineer.	...	Do.		

(*Schedule A.*)

SCHEDULE A—*continued.*

Consecutive number of plots.	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area.	
				Acres.	Square yards.
XIX	Land to the east of Hindu temple at north end of Napier Mole bridge with the following building standing thereon (namely):—	Port Engineer, Karáchi.	On the north by open space covered at high-water. On the south by new channel. On the east by open space. On the west by Native jetty.	...	2,967
	Peons' quarters near Hindu temple.	Do.	Pucka.		
XX	Land for Harbour Works new quarry at Hands Hill, with the following buildings standing thereon (namely):—	Do.	On the north by open space and hills. On the south by open space and old quarry. On the east by open space. On the west by do.	46	3,249
	Peons' quarters at Hands Hill.	Do.	Pucka.		
XXI	Land between China Creek embankment and the sea.	Do.	On the north by China Creek embankment. On the south by the sea. On the east by bare sand hills. On the west by sandy ridges.	90	769
XXII	Anemometer-house, Manora, with chaukidár's house adjoining.	Do.	On ridge of west bank Manora—Anemometer house, pucka; chaukidár's, kutcha	...	111
XXIII	Powder Magazine on Manora Point.	Port Officer	On the north by open space. On the south by No. 1 Battery. On the east by fort. On the west by the sea. Pucka.	...	99

(*Schedule A.*)

SCHEDULE A—*continued.*

Consecutive number of plots.	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area.	
				Acres.	Square yards.
XXIV	Powder Magazine near quarantine buildings.	Port Officer .	On the north and south by sand crest running to Bhit Village. On the east by harbour. On the west by Fullah Creek. Pucka.	...	100
XXV	Bungalow with outhouses at Keamari.	Port Engineer, Karáchi.	On the north by North-Western Railway's station-ground. On the south by Keamari Groyne. On the east by open space. On the west by North-Western Railway's sheds. Kutcha pucka.	...	2,456
XXVI	Manora Backwater .	Do. .	Extends from Manora Point on the west side of the entrance in S. by E. ¼ east direction for a length of 1,503 feet.		
XXVII	Keamari Groyne .	Do.	Runs in a slight curve about S.S.E from west end of Keamari for a length of 7,548 feet.		
XXVIII	East pier. . .	Do. .	An extension of the Groyne, total length 1,500 feet.		
XXIX	Napier Mole bridge .	Do. .	An iron bridge on screw piles with a masonry abutment at either end. Length 1,200 feet in 30 spans of 40 feet each.		

(*Schedule A.*)

SCHEDULE A—*continued.*

Consecutive number of plots.	Name of property.	Heretofore in charge of—	Boundaries and general descriptions.	Approximate area.	
				Acres.	Square yards.
XXX	Native jetty and quay, together with the following buildings standing thereon (namely):—	Port Officer .	Extends westward from north end of Napier Mole bridge. The south wall is 1,400 feet in length.	5	
	Chauki and store-room at Native jetty.	Port Engineer, Karáchi.	Pucka.		
	Godown and Native jetty.	Port Officer .	Do.		
	Harbour Board office at Native jetty.	Do. .	Do.		
	Peons' quarter at jetty	Do. .	Do.		
	Goods-shed do. .	Do. .	Do.		
	Do. do. .	Do. .	Do.		
	Do. do. .	Do. .	Do.		
	Do. do. .	Do. .	Do.		
XXXI	China Creek stoppage embankment.	Port Engineer, Karáchi.	An embankment 2,780 feet long.		
XXXII	Stone shipping-pier at Manora.	Do. .	Situated at the northern limit of the plot of ground occupied by the office and work-shops.		
XXXIII	Workshops' pier at Manora.	Do. .	A wooden pier with fixed spur legs to lift twenty tons.		
XXXIV	Pilot-pier, Manora .	Port Officer .	Wooden pier.		
XXXV	Coal-pier at Manora .	Do. .			
XXXVI	Water-pier do. .	Do. .			
XXXVII	Pier at deep water point, Manora.	Port Engineer.	Called Humby Pier.		

(*Schedule A.*)

SCHEDULE A—*continued.*

Consecutive number of plots.	Name of property.	Heretofore in charge of—	Boundaries and general description.	Approximate area.	
				Acres.	Square yards.
XXXVIII	Merewether Pier at Keamari.	Port Officer .	An iron screw-pile pier T-headed and with hydraulic cranes.		
XXXIX	Customs-pier at Keamari.	Do. .	Wooden pier.		
XL	Commissariat pier do.	Do. .			
XLI	Railway-lines at Manora and Keamari.	Port Engineer, Karáchi.			
XLII	Graving-dock at Manora.	Do. .			
XLIII	Layári Hard embankment and embankment in front of north wall of jetty.	Port Officer .			

II.—The following vessels and boats, together with all the fittings, gear and other appurtenances thereof (*viz.*) :—

Consecutive number.	Name and description.	Heretofore in charge of—
1	Steam tug "Manora," 441 tons, 250 horse-power, paddle wheel	Port Officer, Karáchi.
2	"Nurbudda," cutter, 70 tons	Do.
3	Warp boat No. 1	Do.
4	Do. No. 2	Do.
5	"Keddimari," anchor boat	Do.
6	"Rose," steam barge	Do.
7	"Flirt," steam launch	Do.
8	Bazar boat	Do.
9	Cargo boat	Do.

SCHEDULE A—*continued.*

Consecutive number.	Name and description.	Heretofore in charge of—
10	Boat, cutter	Port Officer, Karáchi.
11	Do.	Do.
12	Life-boat (White's)	Do.
13	Do.	Do.
14	"Jumbo," steam anchor hoy	Do.
15	Gig, 32 feet	Do.
16	Boat, 23 feet	Do.
17	Do.	Do.
18	Do.	Do.
19	Gig, small	Do.
20	Jolly-boat	Do.
21	"Billy," a crane barge	Port Engineer, Karáchi.
22	Boat, country, for surveying, 28 feet long	Do.
23	Do. do. 30½ feet long	Do.
24	Boat, anchor, 23¾ feet	Do.
25	Do. 24¾ feet	Do.
26	Do. 23 feet 9 inches	Do.
27	Do. 30 feet 6 inches	Do.
28	Life-boat, 27 feet	Do.
29	Do. 20 feet 9 inches	Do.
30	Boat, canoe, 23 feet 4 inches	Do.
31	Boat, cutter, 25 feet 3 inches	Do.
32	Jolly-boat, 18¾ feet	Do.
33	Do. 22 feet 5 inches	Do
34	Do. 16 feet 8 inches	Do.

(*Schedule A.*)

SCHEDULE A—*continued.*

Consecutive number.	Name and description.	Heretofore in charge of—
35	Boat, gig, 25 feet 5 inches	Port Engineer, Karáchi.
36	Do. 20¾ feet	Do.
37	Boat, for diver's use, 30½ feet	Do.
38	"Nearchus," steam dredger, 160 feet long, 65 horse-power nominal.	Do.
39	"Albuquerque," steam dredger, 160 feet long, 117 horse-power nominal.	Do.
40	"Dubba," steam dredger, 100 feet long, 25 horse-power nominal.	Do.
41	"Gizree," steam dredger, 100 feet long, 25 horse-power nominal.	Do.
42	"Sindi," steam hopper barge, 130 feet long, 50 horse-power nominal, to carry 400 tons.	Do.
43	"Baluchi," steam hopper barge, 130 feet long, 50 horse-power nominal, to carry 400 tons.	Do.
44	Sailing hopper barge, 90 feet, to carry 200 tons . . .	Do.
45	Hopper barge, under construction, 90 feet, to carry 200 tons .	Do.
46	Do. do. 90 feet, to carry 200 tons .	Do.
47	"Midge," steam launch, 28 feet long, No. 451, built by Mr. John Samuel White, Cowes.	Do.

III.—All other lands, buildings, harbour-works, railway-lines, machinery, plant, tools, furniture, vessels and boats, and other property whatsoever not hereinbefore particularly described, heretofore in the charge of the Port Officer of Karáchi, the Port Engineer of Karáchi, or of the Karáchi Harbour Board.

SCHEDULE B.

(*See section 28.*)

(*1*) *Loans raised by the Karáchi Harbour Board from the public with the sanction of the Governor General in Council and not yet discharged.*

Year in which taken up.	Amount taken up.	Rate of interest payable annually.
	Rs.	
Loan of 1880-81 . . .	2,29,000	5 per cent.
„ 1882-83 . . .	71,000	„
„ 1883-84 . . .	2,88,500	„

(*2*) *Loans promised by the Governor General of India in Council to the Karáchi Harbour Board, and which are in course of being taken up.*

Amounts of Loans.	Rate of interest payable annually.
(1) ₹ 7,11,500 (being ten lakhs, minus the amount of the loan of 1883-84 raised by the Board from the public).	4½ per cent.
(2) ₹ 15,50,000	„

SCHEDULE C.

(*See section 37.*)

Receipt for Goods by the Port Trust, Karáchi.

Landed, during the day of from the by the Port Trust, Karáchi, the noted in the margin ; contents and state of the contents unknown.

NOTE.—If there be any apparent injury, this is to be stated.

For the Board,

A. B.

The Karachi ; day of

SCHEDULE D.[1]

(*See section 28 A, sub-section 7.*)

Agreement between the Board and the Municipality.

An agreement made this the 18th day of January one thousand nine hundred and one between the Municipality of Karáchi of the one part and

[1] Schedule D was inserted by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 31, Vol. IV of this Code.

(*Schedule D.*)

SCHEDULE D—*continued.*

the Trustees of the Port of Karáchi of the other part, whereby it is agreed as follows :—

1. The Municipality of Karáchi (hereinafter called the Municipality) agrees to sell and the Trustees of the Port of Karáchi (hereinafter called the Trustées) agree to purchase at or for the price of Rs. (18,054-5-0) eighteen thousand and fifty-four and annas five only, to be paid as hereinafter mentioned, all that eight-inch water main now laid and extending from the Currie Reservoir to the Traveller's Bungalow at the junction of the Preedy and Bunder Roads and all the iron piping connections and all appurtenances to the said main belonging or appertaining thereto.

2. The Trustees shall lay a six-inch main from the point where the said eight-inch main terminates, joining up one with the other, and carry such six-inch main along the Bunder Road as far as the Merewether Clock Tower, then across the road into the Port Trust Import Yard along the cart road in front of the Platform Sheds, joining the Bunder Road after passing the Custom House on its south side and along the Napier Mole Road to any such point or points at Keamari as the Trustees may now or at any time hereafter deem necessary or expedient.

3. The Trustees shall be at liberty to open up all roads along which the said six-inch main is to be laid to such depth or width as may be reasonably necessary, provided always that any road or portion of road so opened up shall be closed and restored to its original condition as soon as the main has been laid, and provided, also, that the Trustees shall fence the roads so opened and take all the necessary precautions to avoid injury, etc., to passengers and vehicular traffic. The work of laying the main shall, when commenced, continue without interruption until completion.

4. The pipe shall, wherever practicable, be laid at such a depth below the surface of the road, that there shall be at least two feet of filling over every portion of the same.

5. During the construction of the main the Engineer to the Municipality shall at all times have access to the works for the purpose of satisfying the Municipality that the laying of the pipes is being satisfactorily carried out.

6. The Trustees shall pay to the Municipality the said sum of Rs. 18,054-5-0 herein agreed to be paid on the completion of the six-inch main and when the new 6-annas rate comes into force.

SCHEDULE D.—*continued.*

7. During the continuance of this agreement the whole of the said main from the Currie Reservoir to Keamari shall be the exclusive property of the Trustees, and the Trustees shall maintain and keep the same in proper repair and do all renewals and other works necessary for the proper upkeep of the line in such a manner that whenever, during the continuance of this agreement and under the terms thereof or when on the expiration of 30 years the line is taken over by the Municipality it shall be in a thoroughly good and satisfactory condition to fulfil at that time the functions for which it was originally laid. The Port Trust in fact agree to hand over the main in the same satisfactory condition as the Municipality would reasonably be expected to have maintained it had it been their own property. That in case of any dispute between the Municipality and the Port Trust as to the satisfactory condition of the pipes at the time they are taken over by the Municipality, the dispute shall be referred to the Commissioner in Sind for final decision.

8. The Trustees shall be at liberty at any time hereafter and from time to time, on giving one clear day's notice to the Municipality, to take up the road at any point between the Currie Reservoir and Keamari as may, in the opinion of their Engineer, be necessary for examining or repairing any pipe or joint, or for laying any branch pipes, the Trustees in all cases restoring the road to its original condition so soon as the work is completed.

9. So long as this agreement shall remain in force, the said main shall be used by the Trustees for the following purposes only, that is to say, for the work of the Port Trust and for the supply of water to ships and to Manora through the Trust, and no branches shall be taken from the said main for the supply of water to any person or persons or for any purpose except by the Trustees and for Port Trust purposes, or for the supply of water to the shipping and to Manora through the Port Trust, provided that if any time the supply of water by the Municipality at Keamari shall be found to be insufficient for Railway requirements, then water supplied to locomotives engaged on Port Trust work shall be considered as supplied for Port Trust purposes.

10. All water shall, on passing through the junction between the said eight-inch main and the said six-inch main, be measured by a meter to be supplied, fitted and maintained in proper working order by the Trustees, provided the said meter is off the main road. The said meter shall be of a pattern approved of jointly by the Port Trust and Municipal Engineers. In the event

SCHEDULE D—*continued.*

of either the Port Trust or the Municipality being uncertain as to the accuracy of the meter adopted, either party may put in a second meter on any portion of the six or eight-inch main in order to test the accuracy of the first. The meter to be kept under two independent locks and keys, so that neither the Port Trust nor the Municipal representative can inspect the meter independently.

11. The Trustees shall pay to the Municipality for all water as so measured by meter at the rate of six annas per one thousand (1,000) gallons; payment to accrue due on the 1st day of each calendar month and to be made as soon as the amount due shall have been determined.

12. The Trustees shall pay in addition to the said rate of six annas for one thousand (1,000) gallons, so long as the present temporary plague tax on water is chargeable to all other consumers, the plague tax of three annas per one thousand (1,000) gallons, and during the continuance of this agreement the Trustees shall be subject in the same way as all other sections of the community shall be subject to any special tax of like nature to the present plague tax that may be levied on all consumers of water under the sanction of the Local Government.

13. The valve communicating between the Currie Reservoir and the said main shall be always kept open, except when for the purposes of cleaning or repairing the Reservoir or for some similar purpose, or when it be necessary under extraordinary circumstances in the interests of the public to restrict the supply it be absolutely necessary that it be closed, but before so closing it the Municipality shall give at least 24 hours' notice to the Trustees of their intention so to do. In the event of any difference of opinion between the Port Trust and the Municipality as to whether it is necessary in the interests of the public to close the valve, the question shall be referred to the Commissioner in Sind, whose decision shall be final on the point, but the valve shall in such case not be closed until the Commissioner in Sind's decision is given.

14. During the continuance of this agreement the Municipality shall not make any connection or branch to or from any part of the said main, nor shall the Municipality do or suffer to be done anything whereby the said main or any part thereof shall be injured or exposed to injury or whereby the free flow of water from the Currie Reservoir (subject to the provision made in clause 13) into and through the whole length of the said main to Keamari shall be obstructed or in any way impeded.

15. This agreement shall, unless previously terminated as hereinafter

SCHEDULE D—*continued.*

provided, continue in force for the term of 30 years commencing from such date as the Trustees shall commence to use the said main for the purpose of drawing water therefrom at Keamari.

16. On the termination of this agreement by efflux of time the whole of the said main and all its appurtenances shall become the absolute property of the Municipality.

17. The Municipality may, at any time, by giving three months' notice in writing of its intention so to do, terminate this agreement and take over the whole of the said main with all its appurtenances on payment of its value at the time of taking it over. This value shall be calculated on the basis of provisions of clause 16 hereof, *i.e.*, the price to be paid shall bear the same proportion to the original cost of the main (*viz.*, the price under clause 1 and the cost of extension incurred under clause 2 hereof) as the unexpired portion of 30 years to 30 years.

18. So soon as the said main and its appurtenances have been taken over by the Municipality under the provisions herein contained, the Engineer to the Municipality and all necessary Assistants and workmen shall at all times have access to the Import Yard or other premises belonging to the Port Trust in or under which any portion of the said main shall be laid for the purpose of examining, repairing or doing any other necessary work in connection with the said main or any branches thereof. And it shall be lawful for the Municipality to make any branch connections that they may think necessary with the said main and for that purpose to open up the ground within the Port Trust premises in such places and to such depth and width as may be necessary: Provided always that it shall be lawful for the Trustees, at any time after the said main shall have been taken over as aforesaid at their own costs in all things, to remove from their premises such portion of the said main as shall be in or under their premises and relay the same in or under Municipal land, such relaying being carried out under the direction and to the satisfaction of the Engineer to the Municipality.

19. From and after the termination of this agreement, whether by the efflux of time or otherwise under the provisions herein contained, the Trustees shall pay the Municipality for water if they require to be supplied to them at such rates as shall mutually be agreed on or, failing this, as the Municipality with the sanction of the Local Government shall determine.

In Witness whereof the said Municipality by their President and two Municipal Commissioners have set their hands and seals to one part of these

SCHEDULE D—*concluded.*

presents, and the said Trustees by their Chairman and two of the said Trustees have set their hands and seals to another part of these presents, the day and year first above written.

Signed, sealed and delivered by

TEHILRAM KHEMCHAND,
President, Karáchi Municipality.

In the presence of

J. FORREST BRUNTON,
Secretary and Acting Engineer,
Karáchi Municipality.

Signed. sealed and delivered by

J. MCCLOGHRY,
Lieut.-Colonel, I.M.S.

In the presence of

BYRAMJEE FRAMJEE,
Head Clerk, P. M. O.'s Office.

Signed, sealed and delivered by

J. A. BELL, Major,
A. A. G., Sind District.

In the presence of

NIHALCHAND HOTECHAND,
Clerk, Municipal Office.

Signed, sealed and delivered by REGINALD POCOCK BARROW, Chairman o the Trustees of the Port of Karáchi, in the presence of

(Signed) R. P. BARROW.

S. H. ROZARE,
Acting Secretary, Karáchi Port Trust.

Signed, sealed and delivered by WILLIAM EDLIN YOUNG, Vice-Chairma of the Trustees of the Port of Karáchi, in the presence of

(Signed) W. E. YOUNG.

S. H. ROZARE,
Acting Secretary, Karáchi Port Trust.

Signed, sealed and delivered by Captain HUGH ALLAN CAMERON, R.E. Trustee of the Port of Karáchi, in the presence of

(Signed) H. A. CAMERON,
Captain, R.E.

S. H. ROZARE,
Acting Secretary, Karáchi Port Trust.

[1] SCHEDULE E.

(*See section 69C.*)

Of Bonds allotted from Karáchi Port Trust Second Issue of Loan of 13 Lákhs to Karáchi Port Trust Funds.

Particulars of Loans and Numbers of Debentures.	Number.	Amount.	Total.	Grand Total.
		Rs.	Rs.	Rs.
4 per cent. Karáchi Port Trust Debenture Loan (Rs. 10,93,500). 2nd Issue of Loan of 13 Lákhs for appliances and Harbour Works—				
Numbers 969 @ 973	5	5,000	25,000	
„ 974 @ 993	20	1,000	20,000	
„ 948, 994 @ 1003	11	500	5,500	
				50,500

THE PROTECTION OF PILGRIMS ACT, 1887.

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PREAMBLE.

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1. Short title.
   Extent.
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3. Penalty for acting as pilgrim-broker without license.
4. Persons may be licensed to act as pilgrim-brokers.
5. Licenses what to specify.
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7. Power to suspend and cancel licenses.
8. Appointment of Protectors of Pilgrims.
   Their duties.
9. Power to enter vessels conveying pilgrims.
10. Penalty for not facilitating inspection.

[1] Schedule E was inserted by the Karáchi Port Trust Act Amendment Act, 1902 (Bom. Act 2 of 1902), s. 31, Vol. IV of this Code.

SECTIONS.

11. Information to be supplied by master, owner or agent of vessel conveying pilgrims.
12. Penalty for refusal or omission to give such information.
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Penalty for issue of tickets bearing same number.
15. Provisions of Native Passenger Ships Act, 1887, to apply to offences and penalties.
16. Penalties to be enforced only at the instance of the Commissioner.

BOMBAY ACT No. II OF 1887.[1]

[*4th June, 1887.*]

An Act to provide for the protection of pilgrims at the ports of Bombay and Karáchi.

WHEREAS it is expedient to provide for the protection of pilgrims at the ports of Bombay and Karáchi; It is enacted as follows:— Preamble.

1. This Act may be cited as the Protection of Pilgrims Act, 1887. Short title.

It extends only to the cities and ports of Bombay and Karáchi. Extent.

2. In this Act,— Definitions.

(*1*) "pilgrim" means a Muhammadan who is about to proceed from the port of Bombay or Karáchi on a pilgrimage to the Hedjaz, whether he is going direct to Jeddah or *viâ* any other port:

(*2*) "pilgrim-broker" means a person who buys and re-sells, or sells on commission, or takes any reward for the purchase or sale of passage tickets for pilgrims:

(*3*) "agent" includes a person who has chartered a vessel for the conveyance of pilgrims:

(*4*) "the Commissioner" means, in Bombay, the Commissioner of Police or his deputy: and in Karáchi, such officer as the Governor in Council may [2] appoint.

3. Any person who, without a license from the Commissioner, acts as a pilgrim-broker shall be liable for each such offence to a fine which may extend to five hundred rupees. Penalty for acting as pilgrim-broker without a license.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1886, Pt V, p. 11; for Report of the Select Committee, *see ibid*, p. 172; and for Proceedings in Council, *see ibid*, p. 89, and *ibid*, 1887, p. 15.

[2] For notification making such an appointment, *see* list prefixed to the Bombay Local Rules and Orders, Vol. II, Ed. 1898, p. cxxlxxii.

Persons may be licensed to act as pilgrim-brokers.

4. Subject to the orders of the Governor in Council, the Commissioner may grant to such persons as he thinks fit licenses to act as pilgrim-brokers.

The said licenses shall be granted on such conditions and subject to such restrictions and limitations for the honest and good behaviour of the licensees as Government may from time to time prescribe.

Licenses what to specify.

5. Every license so granted shall specify—

(*a*) the name and business address of the licensee;

(*b*) the period for which it is to be in force;

(*c*) the conditions on which and the restrictions and limitations subject to which it is granted;

and shall be granted on payment of such fee, if any, as Government may from time to time direct.

Penalty for misbehaviour of licensed pilgrim-broker.

6. Any licensed pilgrim-broker who shall—

(*a*) commit a breach of any of the terms or conditions of his license;

(*b*) purchase for or sell to any pilgrim a passage-ticket by any vessel to which the provisions of the [1]Native Passenger Ships Act, 1876, VIII of 1876. apply, at any time before notice has been given by the master, owner or agent of such vessel, under section 7 of the said Act, of the date on which it is proposed that such vessel shall sail, and unless, in the case of any vessel, the proposed date of sailing is printed on the passage-ticket;

(*c*) charge a pilgrim more than the cost price of any passage-ticket, provisions or other articles purchased for him, or receive from him any fee or commission on account of such ticket;

(*d*) receive from the master, owner or agent of a vessel any fee or commission, in respect of the sale of any ticket, exceeding five per centum of the price of such ticket;

(*e*) purchase for any pilgrim a passage-ticket, on which there is not printed the price charged by the master, owner or agent of the vessel for each class of accommodation;

(*f*) by fraud or by false representation as to the size of, or accommodation on board, such vessel, or otherwise, or by any false pretence whatever, induce any person to purchase a passage-ticket;

shall be liable for each such offence to a fine which may extend to five hundred rupees.

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[1] *See* now the Native Passenger Ships Act, 1887 (10 of 1887), General Acts, Vol. V, p. 144, by which this Act has been repealed. *See* also the Pilgrim Ships Act, 1895 (14 of 1895), sections 3, 4 and 8, General Acts, Vol. VI, p. 243.

Power to suspend and cancel licenses.

7. The Commissioner may suspend the license of any pilgrim-broker pending enquiry into any accusation against him of misconduct for which, if proved, he would be liable to a penalty under the last preceding section, and may cancel any license granted by him if the licensee is convicted of any offence under the said section or of any criminal offence.

Appointment of Protectors of Pilgrims. Their duties.

8. Government may from time to time appoint persons, being Muhammadans, to be Protectors of Pilgrims for the ports of Bombay and Karáchi.

The persons so appointed shall, for the purposes of this Act, be subordinate to the Commissioner in Bombay and Karáchi, respectively, and shall with the co-operation of the police, aid the Commissioner in giving effect to the provisions of this Act. They shall also advise and generally assist pilgrims during their stay in Bombay or Karáchi whilst proceeding to or returning from the Hedjaz, and exercise supervision over the proceedings of licensed pilgrim-brokers.

Power to enter vessels conveying pilgrims.

9. The Protectors of Pilgrims, or any persons authorized by the Commissioner in this behalf, shall be at liberty at all times to enter and inspect any vessel advertised or offering to convey pilgrims from the port of Bombay or Karáchi.

Penalty for not facilitating inspection.

10. The master or any officer of any such vessel who does not afford every facility for such inspection shall be liable to a fine which may extend to five hundred rupees.

Information to be supplied by master, owner or agent of vessel conveying pilgrims.

11. The master, owner or agent of every vessel advertised or offering to convey pilgrims shall be bound to supply the Protector of Pilgrims, on demand, with full particulars as to the class, tonnage and age of the vessel, the number of tickets of each class to be issued, the price of each ticket, the accommodation to be provided, the latest date of sailing, the ports, if any, to be touched at, and the probable date of arriving at Jeddah.

Penalty for refusal or omission to give such information.

12. Any such master, owner or agent who refuses, or without lawful excuse omits, to give such information, on demand, or furnishes false information, shall be liable to a fine which may extend to five hundred rupees.

Penalty for issue of tickets in excess.

13. Any master, owner or agent of any vessel carrying pilgrims, who shall issue any passage-ticket in excess of the number allowed by the certificate granted under section 10 of the [1] Native Passenger Ships Act, 1876, shall for every passage-ticket so issued be liable to a fine not exceeding four times the cost price of such ticket.

VIII of 1876.

Passage-tickets how to be num-

14. All passage-tickets shall be numbered consecutively according to the order of issue ; and any master, owner or agent who shall issue two or more

[1] *See* now s. 4 of the Native Passenger Ships Act, 1887 (10 of 1887), Genl. Acts, Vol. V, and also the Pilgrim Ships Act, 1895 (14 of 1895), Genl. Acts, Vol. VI.

bered. tickets bearing the same number shall be liable to a fine not exceeding one thousand rupees.

Penalty for issue of tickets bearing same number.

Provisions of Native Passenger Ships Act, 1876, to apply to offences and penalties.

15. The provisions of sections 46, 47 and 49 of the [1] Native Passenger Ships Act, 1876, shall apply to all offences punishable, and to all penalties leviable, under this Act.

Penalties to be enforced only at the instance of the Commissioner.

16. The penalties to which masters and owners of vessels are made liable by this Act shall be enforced only by information laid at the instance of the Commissioner.

THE BOMBAY PREVENTION OF GAMBLING ACT, 1887.

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   "Instruments of gaming" defined.
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4. Keeping common gaming-house.
5. Gaming in common gaming-houses.
6. Power to authorize entry of gaming-house by Police-officers, and seizure of gaming instruments.
7. Proof of keeping, or of gaming in, common gaming-house.
8. On conviction for keeping, or gaming in, common gaming-house, instruments of gaming may be destroyed.
9. Proof of playing for money not required for conviction.
10. Indemnification of persons concerned who are examined as witnesses.
11. Payment of portion of fine to informer.
12. Power to arrest without warrant for gaming, and setting birds and animals to fight in public streets.
    Seizure and destruction of instruments found.
13. Saving of games of mere skill.
    Schedule (*repealed*).

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[1] *See* now s. 4 of the Native Passenger Ships Act, 1887 (10 of 1887), Genl. Acts, Vol. V, and also the Pilgrim Ships Act, 1895 (14 of 1895) Genl. Acts, Vol. VI.

BOMBAY ACT No. IV OF 1887.[1]

[*5th January, 1888.*]

An Act to consolidate and amend the law for the prevention of Gambling in the Presidency of Bombay.

WHEREAS it is expedient to consolidate and amend the law for the prevention of Gambling in the Presidency of Bombay; It is enacted as follows :—

Short title. 1. This Act may be cited as the Bombay Prevention of Gambling Act, 1887.

Extent. It extends to the City of Bombay, to the Island of Salsette, to all railway station-houses without the said city and island, and to all places not more than three miles distant from any part of such station-houses, respectively, and all or any of its provisions may be extended[2] from time to time by the Governor in Council, by an order published in the *Bombay Government Gazette*, to any local area in the Presidency of Bombay.

The Governor in Council may from time to time, by an order published, as aforesaid, cancel or vary any order made by him under this section.

2. [*Repeal of enactments.*] *Rep. Act XVI of 1895.*

"Gaming" to include wagering. 3. In this Act the word[3] "gaming" whenever it occurs, shall include wagering.

"Instruments of gaming" defined. [3] In this Act the expression "instruments of gaming" includes any article used as a subject or means of gaming.

"Common gaming-house" defined. In this Act "common gaming-house" means a house, room or place in which cards, dice, tables or other instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, room or place, whether by a charge for use of the instruments of gaming or of the house, room or place, or otherwise howsoever.

Keeping common gaming-house. 4. Whoever—

(*a*) being the owner or occupier or having the use of any house, room or place, opens, keeps or uses the same for the purpose of a common gaming-house,

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1887, Pt. IV, p. 12; for Report of the Select Committee, *see ibid*, p. 239, and for Proceedings in Council, *see ibid*, pp. 215 and 244.

[2] For notifications extending the Act, *see* Bombay Local Rules and Orders, Vol. II, Ed. 1898, List on pp. cclxiii *et seq.*

[3] These definitions were inserted by the Bombay Gambling Act, 1890 (I of 1890), Vol. III of this Code.

(*b*) being the owner or occupier of any such house, room or place knowingly or wilfully permits the same to be opened, occupied, kept or used by any other person for the purpose aforesaid,

(*c*) has the care or management of, or in any manner assists in conducting the business of any such house, room or place opened, occupied, kept or used for the purpose aforesaid;

(*d*) advances or furnishes money for the purpose of gaming with persons frequenting any such house, room or place,

shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months.

Gaming in common gaming-houses.

5. Whoever is found in any common gaming-house, playing or gaming with cards, dice, counters or other instruments of gaming, or is found there present for the purpose of gaming, whether by playing for any money, wager, stake or otherwise, shall be punished with fine which may extend to two hundred rupees, or with imprisonment which may extend to one month.

Any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be made to appear, to have been there for the purpose of gaming.

Power to authorize entry of gaming-house by Police-officers,

6. It shall be lawful for the Commissioner of Police in the city of Bombay, and elsewhere for any Magistrate of the first class or any District Superintendent of Police or for any Assistant Superintendent empowered by Government in this behalf, upon any complaint made before him on oath, that there is reason to suspect any house, room or place to be used as a common gaming-house, and upon satisfying himself after such enquiry as he may think necessary that there are good grounds for such suspicion, to give authority, by special warrant under his hand, when in his discretion he shall think fit, to any inspector, or other superior officer of Police of not less rank than a chief constable,—

(*a*) to enter, with the assistance of such persons as may be found necessary, by night or by day, and by force if necessary, any such house, room or place, and

(*b*) to take into custody and bring before a Magistrate all persons whom he finds therein, whether they are then actually gaming or not, and

and seizure of gaming instruments

(*c*) to seize all instruments of gaming, and all moneys and securities for money, and articles of value reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein, and

(*d*) to search all parts of the house, room or place, which he shall have so entered, when he shall have reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he shall so find therein or take into custody, and to seize and take possession of all instruments of gaming found upon such search.

Proof of keeping or of gaming in common gaming-house.

7. When any cards, dice, gaming-table, counters, cloth, board or other instruments of gaming used in playing any game, not being a game of mere skill, are found in any house, room or place entered under warrant issued under the provisions of the last preceding section or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or Police-officer or by any person acting under the authority of either of them.

On conviction for keeping, or gaming in, common gaming-house, instruments of gaming may be destroyed.

8. On conviction of any person for opening, keeping or using a common gaming-house, or playing or gaming therein, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein, or on the persons of those who were found therein, to be forthwith destroyed,

and may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and the proceeds thereof with all moneys seized therein, to be forfeited or, in his discretion, may order any part of such proceeds and other moneys to be paid to any person appearing to be entitled thereto.

Proof of playing for money not required for conviction.

9. It shall not be necessary, in order to convict a person of any offence against any of the provisions of sections 4 and 5, to prove that any person found playing at any game was playing for any money, wager or stake.

Indemnification of persons concerned who are examined as witnesses.

10. Every person who shall have been concerned in any gaming contrary to this Act, and who shall be examined as a witness by or before a Magistrate on the trial of any charge against the owner, keeper or occupier or other person having the care or management of any common gaming-house, touching such gaming, and who upon such examination shall make true and faithful discovery to the best of his knowledge of all things as to which he shall be so examined, and who shall thereupon receive from the said Magistrate a certificate in writing to that effect, shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Payment of portion of

11. The Magistrate trying any case under the provisions of sections 4 and 5 may direct any portion, not exceeding one-fourth, of any fine which may be

fine to informer.

levied under either of the said sections, or any part of the proceeds of articles or moneys seized and ordered to be forfeited under section 8, to be paid to an informer.

Power to arrest without warrant for gaming, and setting birds and animals to fight in public streets.

12. A Police-officer may apprehend without warrant—

(*a*) any person found playing for money or other valuable thing with cards, dice, counters or other instruments of gaming used in playing any game, not being a game of mere skill, in any public street, place or thoroughfare;

(*b*) any person setting any birds or animals to fight in any public street, place or thoroughfare;

(*c*) any person there present aiding and abetting such public fighting of birds and animals.

Any such person shall, on conviction, be punished with fine which may extend to fifty rupees, or with imprisonment which may extend to one month.

Seizure and destruction of instruments found.

And such Police-officer may seize all birds and animals and instruments of gaming found in such public street, place or thoroughfare or on the person of those whom he shall so arrest, and the Magistrate may, on conviction of the offender, order such instruments to be forthwith destroyed, and such birds and animals to be sold and the proceeds forfeited.

Saving of games of mere skill.

13. Nothing in this Act shall be held to apply to any game of mere skill wherever played.

SCHEDULE.

ENACTMENTS REPEALED.

Rep. Act XVI of 1895.

BOMBAY ACT No. V OF 1887.[1]

[*12th January, 1888.*]

An Act to amend Bombay Act No. VI of 1863.

WHEREAS it is expedient to amend Bombay Act No. VI of 1863 (*an Act for the regulation of Public Conveyances in the Town, Suburbs and Harbour of Bombay*) for the purpose, principally, of enabling Government to extend its provisions as well to vehicles which do not, as to those which do, ply for hire in any town or place, other than the city of Bombay; It is enacted as follows:—

[NOTE.—The amendment made by this Act is incorporated in s. 34 of Bombay Act VI of 1863, *see* page 433, *supra*.]

[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1887, Pt. V, p. 13; and for Proceedings in Council, *see ibid*, pp. 216 and 247.

THE MATÁDÁRS ACT, 1887.

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BOMBAY ACT No. VI OF 1887.[1]

[*30th January, 1888.*]

An Act to amend the Bombay Hereditary Offices Act so far as it relates to Matádárs.

Preamble. WHEREAS some portions of the [2] Bombay Hereditary Offices Act are found to be unsuited to matádárs, and it is, therefore, expedient to amend the Bom. III of 1874.

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1884, Pt. V, p. 44; for Reports of the Select Committee, *see ibid*, 1885, p. 39, and *ibid*, 1887, p. 195, and for Proceedings in Council, *see ibid*, 1885, p. 27, *ibid*, 1886, p. 94, and *ibid*, 1887, pp. 205 and 219.

[2] *Supra*, p. 521.

said Act and to enact special provisions for the regulation of the service of matádárs; It is enacted as follows:—

Short title. **1.** This Act may be cited as the Matádars Act, 1887.

Extent. It extends to the districts of Ahmedabad, Kaira, Broach and Surat; but the Governor in Council may, from time to time, by notification in the Bombay Government Gazette, extend its provisions to any village in the Pánch Máhals District.

Commencement. It shall come into force at once: Provided that every appointment to any patel's office to which this Act applies, made under the provisions of the Bom. III of 1874. [1] Bombay Hereditary Offices Act, or of Act [2] No. XI of 1843 (*an Act for regulating the service of hereditary officers under the Presidency of Bombay*) and still in force, shall hold good—

(*a*) until the time when, if this Act had not been passed, such appointment would become vacant, or until the expiry of two years from the coming of this Act into force, whichever first occurs, or,

(*b*) in the case of an appointment which has been made to have effect pending further orders, until such time as the Collector directs;

and a fresh appointment under this Act in lieu of any such appointment as aforesaid shall only be made to have effect from the time when the latter appointment ceases to hold good.

Definitions. **2.** In this Act, unless there be something repugnant in the subject or context,—

(*1*) "matádár family" means a family to which the office of village patel, or some share in the discharge of the duties or in the exercise of the powers ordinarily appertaining to that office, belongs hereditarily:

(*2*) "mátá" means the aggregate of the rights, privileges and responsibilities vesting in a matádár family as such:

(*3*) "member of a matádár family" does not include a female, or a person claiming through a female, whilst such female or person is, under section 2 of [3] Act No. V of 1886 (*an Act to amend Bombay Act III of 1874*), postponed in the order of succession to the mátá, or part thereof or interest therein, to a male member of the family;

(*4*) "matádár" means a member of a matádár family whose name is entered in the register kept under section 5, and includes a representative matádár;

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[1] *Supra*, p. 521.
[2] Act 11 of 1843 is repealed by Bom. Act 3 of 1874.
[3] That is Bombay Act 5 of 1886, *supra*, p. 862.

(*5*) "representative matádár" means a member of a matádár family whose name is entered as a representative matádár in the said register;

(*6*) "senior heir" means the heir who first acquired the right of inheritance, whether by birth, marriage or otherwise;

Expressions defined in the Bombay Land-revenue Code.

(*7*) any word or expression which is defined in the [1]Bombay Land-revenue Code, 1879, and is not hereinbefore defined, shall have the meaning given to it by that Code. Bom. V of 1879.

Modifications of Bombay Act III of 1874.

3. In applying the [2] Bombay Hereditary Offices Act as amended by [3] Bombay Act No. V of 1886 (*an Act to amend Bombay Act III of 1874*). and section 2 of the last-mentioned Act, to matádárs, the term "wátán" shall be deemed to mean all and each of the mátás of a village, and a member of a matádár family shall be deemed to be a wátándár, and the said Act, as so amended, shall be read subject to the following modifications, namely:— Bom. III of 1874.

(*1*) sections 24 to 31, both inclusive, 36 to 59, both inclusive, 61, 62, 67, 69, 71, and clause (2) of section 73, and so much of section 73 as relates to orders passed under Part VI or Part VII or section 58 of the said Act, and in section 4 the definitions of "wátándár" and "representative wátándár," shall be deemed to be repealed;

(*2*) in sections 33 and 34, the words "coming into force of this Act" shall be taken to mean the coming into force of this present Act, and the word "matádár" shall be substituted for the words "registered representative wátándár" and "wátándár", wherever they respectively occur:

(*3*) for the first four words of section 60, the words "when any person elected to officiate or a representative matádár" shall be deemed to be substituted.

Construction.

4. Subject to the provisions of the last preceding section, this Act shall be read as one with the [2] Bombay Hereditary Offices Act. Bom. III of 1874.

Of the Register.

Matádárs' service register what to contain.

5. In the register of lands and allowances in consideration of which liability to perform service still exists, kept under section 65 of the [2]Bombay Hereditary Offices Act the Collector shall specify for every village in which there are matádárs:— Bom. III of 1874.

(*a*) the number of distinct matádár families in the village separately recognized in the Collector's records;

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[1] *Supra*, p. 631.
[2] *Supra*, p. 521.
[3] *Supra*, p. 862.

(*b*) the name of the representative matádár of each matádár family to which a right to hold the office of patel appertains ;

(*c*) the name of every other person directed by the Collector to be entered in the register under section 7 or 9 ;

(*d*) where there are more representative matádárs than one, the order of rotation in which, failing the appointment of an officiator by election, the right to the patel's office is to vest in the said representative matádárs ;

(*e*) the number of persons required to officiate as patels contemporaneously ;

(*f*) a description of the service lands held by each matádár family, showing the area, survey numbers and the assessment thereof, together with the quit-rent, if any, payable, and the net amount of revenue alienated by Government ;

(*g*) the amount and nature of the cash or other allowances, if any, held by each matádár family ;

(*h*) the wátán property or profits assigned under section 23 of the [1] Bombay Hereditary Offices Act for the emoluments of officiators ; Bom. III of 1874.

(*i*) such other particulars as Government from time to time direct.

The said register shall be amended from time to time whenever any change is made in any of the particulars therein specified in accordance with the provisions of this Act or of the [1] Bombay Hereditary Offices Act. Bom. I of 1874.

Right to patel's office to appertain ordinarily to every matádár family; but exclusive right may be declared by Government to appertain to one matádár family.

6. In every village in which there are two or more distinct matádár families separately recognized in the Collector's records, a right to hold the office of patel shall ordinarily be deemed to appertain to each of the said families :

Provided that it shall be competent to the Governor in Council to declare, if, upon consideration of the past history of the tenure of the office in any village, and of the circumstances, so far as known, under which the village was founded, it shall appear to him equitable so to do, that the right to the patel's office in such village appertains [2] [to one or more than one of such families to the exclusion of the remainder of such families, and shall vest in such order as he may thereby determine, and every such declaration shall be conclusive evidence of the rights thereby affirmed].

Determination of matádárs.

7. In the register prepared under section 5 the Collector shall enter the name of every member of a matádár family contained in any list of matádárs

[1] *Supra*, p. 521.

[2] These words were substituted for the words " exclusively to one mátádar family, and every such declaration shall be conclusive evidence of the exclusive right thereby affirmed " by the Matádárs Act Amendment Act, 1890 (Bom. Act 3 of 1890), s. 1, Vol. III of this Code.

made under the orders of Government subsequent to the year 1866 : Provided that—

(*a*) if, for any village, no such list exists, or if, in respect of any matádár family, no person's name has been entered in any such list, or if at the time when this Act comes into force, there is any dispute pending as to the completeness or correctness of any such entry, the Collector shall hold a summary inquiry, and shall enter in the register the name of each member of a matádár family who shall appear to him to have been recognized in the records previous to the year 1867 as a matádár of the family for which such list or entry is wanting, or to which such dispute relates ;

(*b*) if any person whose name should be entered in the register in accordance with any of the foregoing provisions is dead, the name of the heir next in succession, or, if there are two or more heirs of equal degree, the name of the senior heir, shall, subject to the provisions of section 2 of [1] Bombay Act No. V of 1886 (*an Act to amend* [2] *Bombay Act III of 1874*), be entered in the register instead of his.

Determination of representative matádárs.

8. (*1*) The name of one matádár shall be entered in the said register as the representative matádár of each matádár family to which a right to hold the office of patel appertains.

(*2*) For every such matádár family of which there is only one matádár the said matádár shall be the representative matádár.

(*3*) If there are two or more matádárs of any such matádár family, the Collector shall, as soon as may be after the passing of this Act, enter in the said register as representative mátádar of the matádár family such one of the said matádárs as shall appear to him to be the head of the matádár family.

Name of heir to be registered when a mátádar dies.

9. On the death of a representative or other matádár, the fact shall be reported by the village-officers to the Collector, and the name of the heir next in succession, or if there are two or more heirs of equal degree, the name of the senior heir, shall, subject to the provisions of section 2 of [1] Bombay Act No. V of 1886 (*an Act to amend* [2] *Bombay Act III of 1874*) be registered in his stead.

Amendment of the register.

10. If at any time any person shall by production of a certificate of heirship, or of a decree or order of a competent Court, satisfy the Collector that he is entitled to have his name registered under section 7 (*b*) or section

[1] *Supra*, p. 862.
[2] The Bombay Hereditary Offices Act, 1874, *supra*, p. 521.

9 in preference to the person whose name the Collector has ordered to be registered, the Collector shall cause the entry in the register to be amended accordingly.

Of Service.

Duties and privileges of matádárs, as such.

11. Every matádár shall be bound, when so required by the Collector, to perform the duties customarily discharged by matádárs, and shall have the privilege of signing the abstract of village-lands and revenues, and such other village-records as it may be customary for matádárs to sign.

Area to which matádár's function extend may in certain cases be reduced.

12. If within the limits of any village in which there are matádárs a new village or hamlet has been, or shall hereafter at any time be, formed, it shall be competent to the Collector, with the previous sanction of Government, to exclude the limits of such new village or hamlet from the area to which the functions of the said matádárs extend.

Number of officiators requisite for patel's office to be fixed by the Collector.

13. The Collector may fix at his discretion, from time to time, the number of officiators requisite for the due discharge of the duties of every patel's office.

Right to office to vest in representative of families whose rights declared.

14.[1] In every village in which the Governor in Council makes a declaration under section 6, the right to the office of patel shall vest to the exclusion of all other matádárs in the representative of each of the families whose rights are thereby declared, in such order as may therein be determined.

In every other case right of office to be enjoyed by matádár families in rotation.

15. In every other village the right to the patel's office shall vest in each of the matádár families entitled thereto in rotation.

Determination of order of rotation.

16. For the purpose of determining the order in which the said right shall vest in the said families, the Collector shall, as soon as may be after this Act comes into force, by written notice, require the matádárs of the village to assemble in his presence.

On failure of majority of matádárs to agree, Collector to determine order by lot.

If a majority of the matádárs present in accordance with the said notice do not agree to some order of rotation, the order shall be forthwith determined by the Collector by lot, in the presence of the assembled matádárs, in such manner as he shall think fit :

[1] This section was substituted by the Matádárs (Amendment) Act, 1890 (Bom. Act 3 of 1890), s. 2, Vol. III of this Code.
The original section ran as follows :—
"In every village in which the Governor in Council declares under s. 6 that the right to the patel's office appertains exclusively to one matádár family, the said right shall vest in the representative matádár family alone."

Proviso.

Provided that if, in the course of any proceeding held under the [1]Bombay Hereditary Offices Act, an order of rotation for service of the representative wátándárs of the same families has been already settled by lot or by agreement of the parties, the order so settled shall hold good for the purpose of the last preceding section. Bom. III of 1874.

When officiator may be elected by matádárs.

17. On or in anticipation of the occurrence of a vacancy in the office of patel in any village to which section 15 applies, the matádárs of the village may elect some member of the matádár family whose turn it is to enjoy the right of office to fill the vacancy.

Failing election of officiator by matádárs, right of office to vest in representative matádár.

If a majority of the said matádárs fail, within such reasonable period as shall be prescribed by the Collector in this behalf, to nominate some member of the matádár family aforesaid for the vacancy, or if the person nominated is disqualified for office, the right of office shall vest in the representative matádár of the said family.

Rules for elections to be prescribed by Government.

18. Elections under the last preceding section shall be held in accordance with such rules [2] as the Governor in Council, by notification in the Bombay Government Gazette, from time to time, prescribes in this behalf.

Representative matádár must ordinarily officiate in person.

19. Every representative matádár in whom the right of office vests under section 14 or 17 shall ordinarily be required by the Collector, if he is not disqualified for office, to officiate in person; but the Collector may, if he thinks fit, dispense with his personal service.

On refusal by one representative matádár to officiate in person, turn to enjoy right of office to pass.

If, in any village to which section 15 applies, the representative matádár of the family whose turn it is to enjoy the right of office declines, when so required by the Collector, to officiate in person, the turn to enjoy the said right shall pass to the matádár family next in the settled order of rotation.

Other employment when prohibited to representative matádárs Failure to reside in village.

A representative matádár who declines, whilst officiating, to forsake some other employment which, in the opinion of the Collector, is incompatible with the due discharge of the duties of the patel's office, or fails when so required by the Collector to reside in the village for which he is appointed, shall be deemed to decline to officiate in person.

When deputy may be appointed by representative matádár.

20. A deputy may be appointed at any time—

(*a*) by a representative matádár who is, or who whilst officiating in person becomes, disqualified for office; and

(*b*) with the Collector's permission, by a representative matádár who does not wish to officiate or to continue to officiate in person, although not disqualified for office; and

[1] *Supra*, p. 521.
[2] *See* Bombay Local Rules and Orders, Vol. II, Ed. 1898, pp. 641 and 642.

(*c*) by a sole representative matádár, who proposes to officiate or is already officiating in person, when one or more other officiators are necessary.

Removal of deputy.

A deputy appointed by a representative matádár may at any time be removed from office by the Collector at the request of the representative matádár, if in the opinion of the Collector there are good reasons for such request.

Procedure when appointment of deputy has to be made by representative matádár.

21. When an appointment of a deputy has to be made by a representative matádár, the Collector shall, by written notice, require him to nominate a fit person to be his deputy within twenty days from the date of service of the said notice.

Should the representative matádár fail, within the said period, to nominate any person, or if the person he nominates is not a member of a matádár family of the same village, or is disqualified for office, the Collector may, in his discretion, extend the period of nomination for a further term of ten days.

If within the prescribed period of twenty days, or, when the Collector extends the period, within the extended term, no person is nominated by the representative matádár, or the person nominated by him is not a member of a matádár family of the same village, or is disqualified for office, the turn to enjoy the right of office shall, in a village to which section 15 applies, pass to the matádár family next in the settled order of rotation.

Appointment of deputy when to be made by Collector.

22. If a sole representative matádár declines, when so required by the Collector, to officiate in person, or fails to appoint a fit person to be his deputy in accordance with the provisions of the last preceding section, the Collector shall appoint a deputy.

Such deputy ordinarily to be member of matádár family; but with sanction of Government may be any other person.

A deputy so appointed by the Collector shall ordinarily be a member of the matádár family of the village for which he is appointed, but, with the previous sanction of Government, may be any other person.

Guardian may act on behalf of matádár legally incompetent.

23. If a matádár is under eighteen years of age, or if disabled by lunacy or imbecility of mind, the guardian or other legal curator of his person may act in his behalf in any of the matters provided for in sections 16, 17, 20 and 21.

Term of office of sole representative matádár, and

24. The term of office of a sole representative matádár shall be for life, if the representative matádár shall not in the meantime become disqualified for office.

of an elected officiator.

The term of office of a person elected under section 17 shall be for five years, or for such longer period as a majority of the matádárs shall, at the time of election, desire, if the person elected shall not in the meantime die or become disqualified for office.

The desire of the matádárs as to the duration of the term of office of any person elected by them under section 17 shall be ascertained in accordance with the rules prescribed under section 18 for determining nominations.

Term of office of representative matádár entitled to office on failure of election.

25. The term of office of a representative matádár in whom the right of office vests on failure of an election under section 17 shall be—

(*a*) five years, when the number of representative matádárs exceeds nine;

(*b*) seven years, when the number of representative matádárs exceeds four but does not exceed nine;

(*c*) ten years, when the number of representative matádárs does not exceed four.

Deputies to be appointed for period of their principal's term of office.

26. A deputy appointed by a representative matádár, or by the Collector in his stead, shall be appointed for the term, or for the residue of the term, of office of the representative matádár by or for whom he is so appointed; and, if a deputy dies or resigns or becomes disqualified for office during the said term, another deputy may be appointed for the residue of the said term in accordance with the provisions of sections 21 and 22:

Provided that—

(*a*) if a representative matádár who has appointed a deputy because he himself was disqualified for office, or because he did not wish to officiate in person, subsequently at any time during his term of office wishes to officiate in person, he may, if he is not then disqualified for office, be permitted so to do by the Collector;

(*b*) if a representative matádár dies during his term of office, the deputy, if any, officiating in his stead shall cease to officiate and the successor of the representative matádár shall, subject to the provisions of section 19, officiate in person for the residue of the said term, or a deputy shall be appointed by him or by the Collector in his stead for the said period, according to the provisions of sections 20, 21 and 22.

No change of officiator to be permitted during last year of representative matádár's term of office.

27. Notwithstanding anything hereinbefore contained to the contrary, no representative matádár in any village to which section 15 applies shall be permitted to commence to officiate in person, and no new deputy shall be appointed by or for a representative matádár in any such village during the last year of the term of office of such representative matádár.

If occasion arises during any such year for any change of an officiator in any such village, there shall be deemed to be a vacancy in the office. If occasion arises for any such change, office to be deemed vacant.

28. During any interval between the occurrence of a vacancy in a patel's office and its being filled up in accordance with the foregoing provisions, and during the time that any officiator is suspended, the Collector may appoint such person as he thinks fit, whether a member of a matádár family of the village or not, to officiate temporarily. Appointment of temporary officiators by Collector.

29. If an officiator is temporarily absent from his village, or is temporarily prevented by illness from discharging the duties of his office, he may depute some other fit person, whether a member of a mátádar family of the village or not, to perform the said duties, but shall be responsible for the acts and omissions of the person so deputed as if they were his own acts and omissions. Officiators to retain substitutes during their absence or illness.

Of the Disqualifications for the Patel's Office.

30. The following persons shall be deemed to be disqualified for the patel's office, namely:— What persons to be deemed disqualified for office.

(*a*) females;

(*b*) persons under eighteen years of age;

(*c*) any person who has not passed such educational test, if any, as Government think fit, from time to time, to prescribe in this behalf;

(*d*) any person who has attained sixty years of age, except when such person's appointment or further continuance in office is specially permitted by the Collector;

(*e*) any person who, in the opinion of the Collector, is disabled by lunacy or imbecility of mind, or by deafness, blindness or other permanent infirmity of body;

(*f*) any person who, at the time when he would otherwise be entitled to officiate, is adjudged by the Collector, after a summary inquiry, to be of general bad character;

(*g*) any person who has been sentenced by a Criminal Court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having subsequently been reversed or quashed, and whose disqualification on account of such sentence has not been removed by an order which the Governor in Council is hereby empowered to make, if he shall think fit, in this behalf;

(*h*) any person removed from office under section 31, except when such person's re-employment is expressly sanctioned by Government.

Any officiator who during his term of office becomes disqualified for any of the above reasons shall cease to officiate.

Of Penalties.

Punishment of matádárs and officiators by fine, and

31. Any matádár who shall neglect or refuse to comply with any order made by the Collector under section 11, and any matádár or officiator who shall be careless or negligent in the discharge of his duties, may be punished by the Collector, for each such offence, by fine which may extend to one-fourth part of the annual emoluments of such matádár or officiator.

of officiators by suspension or removal from office.

If an officiator shall be accused of any misconduct which shall seem to the Collector to require a severer punishment than that aforesaid, the Collector may suspend him from office during investigation into such accusation, and, after holding a summary inquiry, may, if he consider the officiator guilty of misconduct meriting such punishment, suspend him from office for a further period not exceeding six months, or, if fraud or wilful framing of incorrect records or other grave misconduct or offence is proved against him, may, with the previous sanction of Government, remove him from office.

Disabilities of representative matádár removed from office.

When a representative matádár has been so removed from office, he shall, if Government so direct, be deprived for the rest of his life of any right which he would otherwise have of voting at an election of an officiator, or of appointing a deputy to officiate; and, if any representative matádár so deprived is a sole representative matádár, a deputy shall be appointed by the Collector, subject to the provisions of paragraph two of section 22, to officiate in his stead during his lifetime.

Forfeiture of life interest of representative matádár in case of removal from office.

If any representative matádár or deputy is removed from office under this section, the Governor in Council may direct the forfeiture of the life interest in the matá of the representative matádár so removed from office, or of the representative matádár by whom the deputy so removed from office was appointed, as the case may be.

Liability of officiator to criminal prosecution and suspension pending inquiry and trial.

32. Nothing in the last preceding section shall affect the liability of an officiator to a criminal prosecution for any offence which he may be accused of having committed; and the Collector may suspend any officiator subjected to any such prosecution pending the inquiry and trial, and at its close may take the proceedings and the finding of the Criminal Court into his consideration for the purpose of dealing with the case under the last preceding section.

BOMBAY ACT No. VII OF 1887.[1]

[*28th April, 1888.*]

An Act to declare and amend the Law relating to Toda Girás Allowances.

WHEREAS it is expedient to declare and amend the law relating to toda girás allowances; It is enacted as follows:—

Short title.

1. This Act may be called the Toda Girás Allowances Act, 1887.

"Toda girás allowance" defined.

2. In this Act, "toda girás allowance" means a cash payment made periodically to any person on the part of Government, or by or on the part of a holder of alienated land, under the name of *girás*, *wol*, *tora girás* or *toda girás*.

Toda girás allowances to be held hereditarily in male descent.

3. Every toda girás allowance is continuable hereditarily to the lineal male heirs in male descent of the first recipient thereof under British rule:

Provided that on failure of such heirs, the allowance, or some portion thereof, shall, whenever the Governor in Council has already so directed, or shall hereafter so direct, be continuable hereditarily to the lineal male heirs in male descent of a brother of the first recipient of such allowance under British rule.

Mortgage, etc., of toda girás allowance.

4. No mortgage, charge or alienation of a toda girás allowance, or of any part thereof, or of any interest therein, by any recipient of the same, shall be valid as to any time beyond such recipient's natural life.

Exemption of toda girás allowances from attachment and sale in execution of decrees.

5. No toda girás allowance shall be liable to attachment or sale in execution of a decree:

Provided that any money due or likely to become due to a judgment-debtor on account of a toda girás allowance may be attached in execution of the decree against him, but such attachment shall not affect any money which becomes due on account of such allowance after such judgment-debtor's death.

Saving of toda girás allowances already alienated.

6. (*1*) Nothing in this Act applies to a toda girás allowance which has already been alienated—

(*a*) if the instrument purporting or operating to effect such alienation has before the date on which this Act comes into force been registered under any law for the time being in force relating to the registration of documents; or

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[1] For Statement of Objects and Reasons, *see* Bombay Government Gazette, 1886, Pt. V, p. 99, and for Proceedings in Council, *see ibid*, 1887, pp 16,. 212 and 220

(*Sec. 6*—contd.)

(*b*) if the said instrument, not being compulsorily registrable, and not having been registered under any such law as aforesaid, has been executed before the date on which this Act comes into force, and is presented for inspection, together with a copy thereof, for record, at any time within six months after the said date, to the Collector of the district in which such allowance is payable; or

(*c*) if when such alienation has not been effected by an instrument, proof thereof is produced within the period and to the Collector aforesaid.

Collector how to proceed in respect of alienations notified to him under clauses (*b*) and (*c*).

(*2*) When any instrument is presented to a Collector under clause (*b*), he shall, before returning the same, endorse thereon, under his signature and official seal, the date of such presentation. When proof of an alienation is produced before a Collector under clause (*c*), he shall give to the alienee a certificate, under his signature and official seal, that the toda girás allowance so alienated is not subject to the provisions of this Act.

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